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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH  
SESSION

HOUSE FILE No. 1692

May 10, 2011  
Authored by Hoppe, Beard and Johnson  
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1A bill for an act

1.2relating to telecommunications; streamlining telecommunications regulations;

1.3modifying and updating civil penalties, rate regulation, regulatory requirements,

1.4and technical provisions; amending Minnesota Statutes 2010, sections 237.081;

1.5237.50, by adding subdivisions; 237.51, subdivision 1; 237.681, subdivision 1;

1.6237.69, subdivision 17, by adding subdivisions; proposing coding for new law as

1.7Minnesota Statutes, chapter 237A; repealing Minnesota Statutes 2010, sections

1.8237.01, subdivisions 1, 3, 4, 6, 7, 8; 237.011; 237.012; 237.02; 237.03; 237.035;

1.9237.036; 237.05; 237.06; 237.065; 237.066; 237.067; 237.068; 237.069; 237.07;

1.10237.071; 237.072; 237.075, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11; 237.076;

1.11237.082; 237.09; 237.10; 237.101; 237.11; 237.115; 237.12; 237.121; 237.14;

1.12237.15; 237.155; 237.16, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13;

1.13237.164; 237.17; 237.18; 237.19; 237.20; 237.21; 237.22; 237.23; 237.231;

1.14237.24; 237.25; 237.26; 237.27; 237.28; 237.295; 237.30; 237.33; 237.34;

1.15237.35; 237.36; 237.37; 237.38; 237.39; 237.40; 237.411; 237.414; 237.435;

1.16237.44; 237.45; 237.46; 237.461, subdivisions 1, 2, 4; 237.47; 237.57; 237.59,

1.17subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10; 237.60, subdivisions 3, 4; 237.61;

1.18237.626; 237.64; 237.66, subdivisions 1, 1a, 1c, 1d, 2, 2a, 3; 237.661; 237.662;

1.19237.663; 237.665; 237.67; 237.681, subdivision 5; 237.73; 237.74; 237.75;

1.20237.76; 237.761; 237.762; 237.763; 237.764; 237.765; 237.766; 237.767;

1.21237.768; 237.769; 237.770; 237.771; 237.772; 237.773, subdivisions 1, 2, 3, 4;

1.22237.774; 237.775; 237.79; 237.80; 237.81.

1.23BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.24ARTICLE 1

1.25TELEPHONE AND TELECOMMUNICATIONS

1.26Section 1. [237A.01] DEFINITIONS.

1.27Subdivision 1. Generally. For purposes of this chapter, the following terms have

1.28the meanings given.

1.29Subd. 2. Advanced services. "Advanced services" means:

1.30(1) "advanced services" as defined in Code of Federal Regulations, title 47, section

1.3151.5;

2.1 (2) "information services" as defined in United States Code, title 47, section 153,  
2.2 paragraph (20);

2.3 (3) "Internet protocol-enabled services," which is defined as any service,  
2.4 functionality, or application that uses Internet protocol, a comparable protocol, or a  
2.5 successor protocol, and enables an end user to send or receive a voice, data, or video  
2.6 communication;

2.7 (4) "commercial mobile radio service" as defined in United States Code, title 47,  
2.8 section 332; or

2.9 (5) any telecommunications service not commercially available on the effective  
2.10 date of this chapter.

2.11 Subd. 3. **Advanced services provider.** "Advanced services provider" means a  
2.12 person or entity that provides any advanced services.

2.13 Subd. 4. **Basic telecommunications service.** (a) "Basic telecommunications  
2.14 service" means retail, stand-alone residential telephone exchange service that is:

2.15 (1) the only telecommunications service provided to and purchased by a residential  
2.16 end user;

2.17 (2) not part of a package of features, services, or products;

2.18 (3) not part of a customer-specific contract; and

2.19 (4) not sold in a promotion or otherwise offered at a discounted price.

2.20 (b) Basic telecommunications service includes, at a minimum, each of the following:

2.21 (1) voice-grade access to the public switched telephone network;

2.22 (2) dual-tone multifrequency signaling and single-party telecommunications service;

2.23 (3) access to:

2.24 (i) emergency services, including 911 and enhanced 911 where available;

2.25 (ii) operator services;

2.26 (iii) local directory assistance;

2.27 (iv) telephone relay services; and

2.28 (v) interexchange service, regardless of the interexchange carrier selected; and

2.29 (4) toll limitation services for qualifying low-income end users.

2.30 (c) Basic telecommunications service does not include:

2.31 (1) advance services; or

2.32 (2) the necessary software, hardware, transmission service, or transmission path for  
2.33 voice, data, or video communications, or any combination of those communications.

2.34 Subd. 5. **Commission.** "Commission" means the Public Utilities Commission.

3.1        Subd. 6. **Competitive local exchange carrier or CLEC.** "Competitive local  
3.2 exchange carrier" or "CLEC" means a local exchange carrier who was granted a certificate  
3.3 of authority to provide service after February 8, 1996.

3.4        Subd. 7. **End user.** "End user" means a retail customer of a telecommunications  
3.5 provider.

3.6        Subd. 8. **Exchange access.** "Exchange access" means the offering of switched  
3.7 access to telephone exchange services or facilities for the purpose of the origination or  
3.8 termination of telephone toll services within the state.

3.9        Subd. 9. **Incumbent local exchange carrier or ILEC.** "Incumbent local exchange  
3.10 carrier" or "ILEC" means a local exchange carrier who was granted a certificate of  
3.11 authority to provide service before February 8, 1996, including any successors or assigns  
3.12 of the carrier that provides wireline telephone exchange service.

3.13        Subd. 10. **Independent local exchange carrier.** "Independent local exchange  
3.14 carrier" means an incumbent local exchange carrier organized and operating under chapter  
3.15 301 or 302A or authorized to do business in Minnesota under chapter 303 as of January  
3.16 1, 1983, and providing local exchange service to fewer than 50,000 subscribers within  
3.17 the state.

3.18        Subd. 11. **Interexchange carrier.** "Interexchange carrier" means a provider of  
3.19 interexchange services.

3.20        Subd. 12. **Interexchange service.** "Interexchange service" means the access and  
3.21 transmission of communications between two or more local exchange areas, except  
3.22 for two-way switched communications between local exchanges that are grouped for  
3.23 extended area service.

3.24        Subd. 13. **InterLATA.** "InterLATA" means telecommunications between a point  
3.25 located in a local access and transport area and a point located outside that area.

3.26        Subd. 14. **IntraLATA.** "IntraLATA" means telecommunications between a point  
3.27 located in a local access and transport area and a point located inside that area.

3.28        Subd. 15. **Intrastate access service.** "Intrastate access service" means exchange  
3.29 access services and special access services.

3.30        Subd. 16. **Local access and transport area or LATA.** "Local access and transport  
3.31 area" or "LATA" has the meaning given it in United States Code, title 47, section 153,  
3.32 paragraph (25).

3.33        Subd. 17. **Local exchange carrier or LEC.** "Local exchange carrier" or "LEC"  
3.34 has the meaning given it in United States Code, title 47, section 153, paragraph (26),  
3.35 and includes competitive local exchange carriers, incumbent local exchange carriers,  
3.36 and independent local exchange carriers.

4.1            Subd. 18. **Nonbasic telecommunications service.** (a) "Nonbasic  
4.2 telecommunications service" means all retail telecommunications services that are  
4.3 included in:

4.4            (1) customer-specific contracts;  
4.5            (2) volume, term, and discount pricing options; or  
4.6            (3) packages, bundles, and promotions, including, without limitation, offers designed  
4.7 to obtain new end users, retain existing end users, or bring back former end users.

4.8            (b) Nonbasic telecommunications service does not include:

4.9            (1) basic telecommunications service, except that basic telecommunications  
4.10 service shall be included in the term "nonbasic telecommunications service" when basic  
4.11 telecommunications service is purchased by the end user (i) in conjunction with another  
4.12 service; (ii) as part of a package of features, services, or products, or in connection  
4.13 with a promotion; (iii) pursuant to a customer-specific contract; or (iv) at an otherwise  
4.14 discounted price; or

4.15            (2) intrastate access service.

4.16            Subd. 19. **Person.** "Person" includes a natural person, individual, trustee,  
4.17 partnership, joint venture, joint-stock company, trust, organization, municipality,  
4.18 association, limited liability company, corporation, or other legal or commercial entity.

4.19            Subd. 20. **Retail rate transition period.** "Retail rate transition period" means the  
4.20 period beginning on May ....., 2011, and ending on May ....., 2012.

4.21            Subd. 21. **Retail telecommunications service.** "Retail telecommunications service"  
4.22 means basic telecommunications service and nonbasic telecommunications service offered  
4.23 by a telecommunications provider to its end users.

4.24            Subd. 22. **Telecommunications.** "Telecommunications" has the meaning given it in  
4.25 United States Code, title 47, section 153, paragraph (43).

4.26            Subd. 23. **Telecommunications service.** "Telecommunications service" has the  
4.27 meaning given it in United States Code, title 47, section 153, paragraph (46). The term  
4.28 telecommunications service does not include any service that is an advanced service.

4.29            Subd. 24. **Telecommunications provider.** "Telecommunications provider" means  
4.30 a person or entity that offers any telecommunications service as defined in this chapter,  
4.31 including local exchange carriers and interexchange services.

4.32            Subd. 25. **Telephone exchange service.** "Telephone exchange service" has the  
4.33 meaning given it in United States Code, title 47, section 153, paragraph (47).

4.34            Subd. 26. **Wholesale telecommunications service.** "Wholesale telecommunications  
4.35 service" means:



(1) any telecommunications service offered under an interconnection agreement between an ILEC and a CLEC pursuant to sections 251 and 252 of the 1996 Act; or  
(2) intrastate access service.

Subd. 27. **1996 Act.** "1996 Act" means the federal Telecommunications Act of 1996, Public Law 104-104, United States Code, title 47, section 151 et seq.

**Sec. 2. [237A.02] JURISDICTION OF COMMISSION, DEPARTMENT, AND ATTORNEY GENERAL.**

Subdivision 1. **Commission jurisdiction under this chapter.** (a) Notwithstanding any other provision of this chapter, the commission may exercise all authority expressly granted to it by Minnesota or federal law, and all authority expressly delegated to the commission by the Federal Communications Commission, with respect to any telecommunications provider concerning:

(1) wholesale telecommunications services in Minnesota, by means of the arbitration, approval, and enforcement of interconnection agreements in accordance with, and subject to, sections 251 and 252 of the 1996 Act;

(2) the terms, conditions, rates, and charges applicable to intrastate access service within Minnesota;

(3) basic telecommunications services during the retail rate transition period;

(4) the telecommunications access Minnesota (TAM) program and Minnesota telephone assistance program (TAP);

(5) administration of dialing codes and numbering issues under Minnesota or federal law; and

(6) designation of eligible telecommunications carriers under United States Code, title 47, section 214, and administration of state or federal universal service or high-cost funds.

(b) The commission does not have jurisdiction or authority over, including but not limited to, rates and charges, terms and conditions of service, filing of schedules or tariffs, market entry or exit, depreciation requirements, quality of service, long-term financing arrangements or other obligations, asset sales, mergers or acquisitions, or any other matter that was within the jurisdiction of the commission before the effective date of this section with respect to:

(1) basic telecommunications services after the retail rate transition period;

(2) nonbasic telecommunications services;

(3) interexchange services; or

(4) advanced services.

Subd. 2. **Department of Commerce authority.** Except for the authority expressly delegated to it in this chapter, the Department of Commerce does not have oversight over, or authority with respect to, any of the matters governed by this chapter.

Subd. 3. **Attorney general authority.** The provision of telecommunications services must be governed exclusively by the laws and obligations otherwise generally applicable to businesses operating within Minnesota, and must be enforced by the attorney general or otherwise authorized and applicable federal, state, or local authorities. The attorney general has exclusive investigative and enforcement authority over all matters governed by this chapter except for those matters over which the commission is expressly granted authority by this chapter, as to which the commission has exclusive jurisdiction.

Sec. 3. **[237A.03] RETAIL RATE TRANSITION PERIOD FOR BASIC SERVICES.**

The retail rate transition period begins on May ..., 2011, and ends on May ..., 2012. During the retail rate transition period, a local exchange carrier may not increase its rates or charges for basic telecommunications service in any local exchange area in which the local exchange carrier offers basic telecommunications service, except as follows:

(1) the local exchange carrier may increase its rates and charges for basic telecommunications service once during the retail rate transition period, in an amount not to exceed \$1;

(2) the local exchange carrier shall provide the commission and all affected end users 30 days' advance notice of any rate increase under this section; and

(3) an incumbent local exchange carrier, including any successor or assign, shall continue to make available a flat monthly rate with unlimited local calling for basic telecommunications service in all local exchange areas in which it offers basic telecommunications service on the effective date of this section, regardless of whether the incumbent local exchange carrier increases the rates and charges for basic telecommunications service in any of those local exchange areas. Throughout the retail rate transition period, an extended area of service in which the incumbent local exchange carrier offers basic telecommunications service on the effective date of this chapter may not be reduced in area or scope without the approval of the commission after notice and hearing.

Sec. 4. **[237A.04] ALTERNATIVE REGULATION PLANS TERMINATED.**

On the effective date of this section, any alternative regulation plan entered into pursuant to Minnesota Statutes 2010, chapter 237, automatically terminates in its entirety

7.1 with respect to all services subject to the plan and has no force or effect. Immediately  
7.2 thereafter, all telecommunications providers, including those who previously had  
7.3 alternative regulation plans, are subject to this chapter.

7.4 Sec. 5. **[237A.05] WHOLESALE TELECOMMUNICATIONS SERVICES.**

7.5 Subdivision 1. **Authority generally.** With respect to wholesale telecommunications  
7.6 services under this chapter, the commission has the authority set forth in this section.

7.7 Subd. 2. **Interconnection.** With respect to interconnection between incumbent local  
7.8 exchange carriers and competitive local exchange carriers:

7.9 (a) In imposing any requirements on incumbent local exchange carriers, concerning  
7.10 interconnection with the facilities and equipment of other local exchange carriers, the  
7.11 resale of telecommunications service, or unbundled access to network elements of an  
7.12 incumbent local exchange carrier for purposes of section 251, subsection (c), of the 1996  
7.13 Act, the commission shall act in accordance with, and shall not exceed the authority  
7.14 delegated to the commission under, applicable federal laws and regulations including,  
7.15 without limitation, sections 251 and 252 of the 1996 Act.

7.16 (b) Subject to any regulations that may be adopted by the Federal Communications  
7.17 Commission, this chapter does not limit or otherwise affect the commission's authority  
7.18 (1) to mediate or arbitrate disputes involving local exchange carriers in accordance with  
7.19 sections 251 and 252 of the 1996 Act, or (2) to approve an interconnection agreement or  
7.20 an incumbent local exchange carrier's statement of terms and conditions under section  
7.21 252 of the 1996 Act.

7.22 (c) Any retail promotional offering lasting more than 90 days must be available to  
7.23 qualifying local exchange carriers for resale. For purposes of this paragraph, a qualifying  
7.24 local exchange carrier is a local exchange carrier that holds a certificate of authority from  
7.25 the commission and has an effective interconnection agreement with the incumbent local  
7.26 exchange carrier offering the retail promotion, the terms of which must include provisions  
7.27 governing the resale of services.

7.28 Subd. 3. **Intrastate access service.** (a) The terms, conditions, rates, and charges for  
7.29 intrastate switched access service and intrastate special access service are subject to the  
7.30 authority granted to the commission by federal law and this chapter.

7.31 (b) With respect to switched network access services:

7.32 (1) Each incumbent local exchange carrier and each competitive local exchange  
7.33 carrier shall reduce and maintain its intrastate switched network access rate elements at a  
7.34 level no higher than its interstate switched network access rate for each corresponding rate  
7.35 element within 30 days of the effective date of this section. This clause does not apply to an

8.1 incumbent local exchange carrier if neither the incumbent local exchange carrier nor any  
8.2 single affiliate of the incumbent local exchange carrier has more than 50,000 access lines.

8.3 (2) Each independent local exchange carrier shall reduce and thereafter maintain its  
8.4 intrastate switched network access rate elements at a level no higher than its interstate  
8.5 switched network access rate for each corresponding rate element by December 31, 2016.  
8.6 Each independent local exchange carrier shall develop an intrastate switched network  
8.7 access plan and petition the commission for approval of its plan by July 1, 2012. Before  
8.8 acting on a petition for approval of the plan, the commission shall conduct a proceeding  
8.9 to decide whether to approve the plan and shall grant discovery as appropriate. The  
8.10 commission shall issue its decision on the petition no later than July 1, 2013.

8.11 (3) Each local exchange carrier shall use the same switched network access rate  
8.12 elements and terms and conditions for intrastate switched network access service that are  
8.13 in effect for that local exchange carrier for the same interstate service. A local exchange  
8.14 carrier may voluntarily reduce its intrastate switched network access element rates below  
8.15 the interstate rate in effect for that local exchange carrier.

8.16 **Sec. 6. [237A.06] SCHEDULES, TARIFFS, AND INDIVIDUAL CONTRACTS.**

8.17 Subdivision 1. **Filing requirements.** Except as set forth in this section,  
8.18 telecommunications providers are not required to maintain or file any schedule, tariff,  
8.19 contract, or agreement with the commission.

8.20 Subd. 2. **General provisions applicable to all tariffs.** Any tariff filed with the  
8.21 commission in accordance with this chapter must include all terms, conditions, rates, and  
8.22 charges that apply to the services specified in the tariff.

8.23 Subd. 3. **Required tariff.** (a) The telecommunications services described in  
8.24 this subdivision require the filing of a tariff. Any tariff required to be filed under this  
8.25 subdivision must be referred to as a required tariff.

8.26 (b) Any local exchange carrier that offers intrastate access services shall maintain on  
8.27 file with the commission a tariff containing the terms, conditions, rates, and charges that  
8.28 the local exchange carrier has established for such intrastate access services.

8.29 (c) During the retail rate transition period, every local exchange carrier that provides  
8.30 basic telecommunications service shall maintain on file with the commission a tariff  
8.31 containing the terms, conditions, rates, and charges for that service.

8.32 (d) Subject to any applicable notice to end users required by this chapter, a required  
8.33 tariff becomes effective 30 days after it is filed with the commission. Notwithstanding the  
8.34 provisions of this subdivision, a new or revised intrastate access tariff does not become  
8.35 effective without an order of the commission.

9.1 (e) A person who objects to a required tariff shall file an objection within 20 days  
9.2 of the filing of the required tariff. The person filing the required tariff may reply to the  
9.3 objection within five days of the filing of the objection.

9.4 (f) The commission shall review the required tariff, the objection, and the reply,  
9.5 within 60 days of the filing of the required tariff and shall issue an order approving the  
9.6 required tariff or order that a contested case hearing be conducted under chapter 14.

9.7 Subd. 4. **Optional tariff.** (a) Unless otherwise prohibited by state or federal law,  
9.8 a telecommunications provider may elect to file a tariff governing telecommunications  
9.9 services provided in the state, whether or not a tariff is required by this chapter. Any tariff  
9.10 filed under this subdivision must be referred to as an optional tariff.

9.11 (b) Subject to any applicable notice to end users required by this chapter, an optional  
9.12 tariff becomes effective one day after it is filed with the commission.

9.13 (c) A telecommunications provider may withdraw an optional tariff for any service  
9.14 by providing written notice to the commission. The withdrawal is effective upon the  
9.15 filing of the notice.

9.16 Subd. 5. **Individual contracts permitted; no filing requirement.** Notwithstanding  
9.17 any other provision of this chapter, a telecommunications provider may enter into an  
9.18 individual contract for providing retail or wholesale telecommunications services, except  
9.19 for intrastate switched access services. The contract may include, without limitation,  
9.20 services that are subject to a tariff filed under this section that includes terms, conditions,  
9.21 rates, and charges that are different from those in the telecommunications provider's  
9.22 tariff. Except as required by federal or state law, any individual contract is not subject  
9.23 to any filing or notice requirement including, without limitation, a requirement that the  
9.24 contract be filed with the commission.

9.25 Sec. 7. **[237A.07] CERTIFICATION, REGISTRATION, AND MAPPING.**

9.26 Subdivision 1. **Application for certificate of authority; fee.** (a) Before a  
9.27 telecommunications provider may offer regulated services to end users in Minnesota, the  
9.28 telecommunications provider must receive a certificate of authority from the commission.  
9.29 The commission shall issue a certificate of authority within 30 days after receipt of a  
9.30 completed application. A telecommunications provider seeking a certificate of authority  
9.31 under this chapter shall submit an application on a form prescribed by the commission. The  
9.32 form must require the telecommunications provider to provide the following information:

9.33 (1) the legal name of the telecommunications provider and any name under which  
9.34 the telecommunications provider does or will do business in Minnesota, as authorized  
9.35 by the secretary of state;

10.1           (2) a certification from the secretary of state authorizing the telecommunications  
10.2 provider to do business in Minnesota;

10.3           (3) the address and telephone number of the telecommunications provider, along  
10.4 with contact information for the person responsible for ongoing communications with  
10.5 the commission;

10.6           (4) the legal name, address, and telephone number of the parent company of the  
10.7 telecommunications provider, if any;

10.8           (5) a description of each service area in Minnesota in which the telecommunications  
10.9 provider proposes to offer telecommunications service;

10.10          (6) a list of other states in which the telecommunications provider offers  
10.11 telecommunications service, including the type of telecommunications service offered; and

10.12          (7) information demonstrating the financial, managerial, and technical ability of the  
10.13 telecommunications provider to provide telecommunications service in Minnesota.

10.14          (b) At the time of filing an application under this section, the commission may  
10.15 collect a filing fee from the applicant, not to exceed \$300.

10.16          Subd. 2. **Amended application for certificate of authority; fee.** (a) No  
10.17 telecommunications provider authorized to provide regulated services shall provide  
10.18 service in any area for which it has not been issued a certificate of authority without first  
10.19 obtaining from the commission an amended certificate of authority. The commission shall  
10.20 issue an amended certificate of authority within 30 days after receipt of an application.  
10.21 The applicant for an amended certificate of authority shall file with the commission notice  
10.22 of expansion, contraction, or acquisition, identifying the territory to be served.

10.23          (b) At the time of filing an amended application under this section, the commission  
10.24 may collect a filing fee from the applicant, not to exceed \$150.

10.25          Subd. 3. **Advanced service provider registration.** (a) Advanced service providers  
10.26 shall register with the commission within 60 days after beginning operation by submitting  
10.27 a registration form as prescribed by the commission. The form must require the advanced  
10.28 service provider to provide the following information:

10.29           (1) the legal name of the advanced service provider and any name under which the  
10.30 telecommunications provider does or will do business in Minnesota, as authorized by the  
10.31 secretary of state;

10.32           (2) a certification from the secretary of state authorizing the advanced service  
10.33 provider to do business in Minnesota;

10.34           (3) the address and telephone number of the advanced service provider, along with  
10.35 contact information for the person responsible for ongoing communications with the  
10.36 commission; and

11.1 (4) a description of the services being provided by the advanced service provider  
11.2 in Minnesota.

11.3 (b) The registration requirement in paragraph (a) does not apply to any advanced  
11.4 service provider that:

11.5 (1) is also a telecommunications provider; and

11.6 (2) has received a certificate of authority from the commission under this chapter.

11.7 Subd. 4. **Map.** Every incumbent local exchange carrier authorized to provide  
11.8 telephone exchange service under this chapter shall file and maintain a territorial map.

11.9 **END USER CONSUMER PROTECTION**

11.10 **Sec. 8. [237A.08] END USER CONSUMER BILL OF RIGHTS.**

11.11 (a) All telecommunications providers are required to:

11.12 (1) allow an end user to choose, either orally, electronically, or in writing, its local  
11.13 exchange and long-distance provider at initiation of service and anytime thereafter;

11.14 (2) advise each residential end user of the price of the service options available to  
11.15 that end user when service is initiated and annually thereafter;

11.16 (3) allow an end user to require the telecommunications provider serving the end user  
11.17 to receive authorization from the end user before processing a request to change the end  
11.18 user's current telecommunications provider to a different telecommunications provider;

11.19 (4) notify the end user within 30 days of any change on the end user's  
11.20 account including, but not limited to, a change in telecommunications providers or  
11.21 telecommunications services, except that this provision does not apply to the disconnection  
11.22 of telecommunications service;

11.23 (5) provide at least five days' notice before disconnecting an end user's  
11.24 telecommunications service for failure to comply with the terms and conditions of service  
11.25 of a telecommunications provider;

11.26 (6) advise each end user of the availability of all blocking options, including, but not  
11.27 limited to, call blocking and toll restriction options when service is initiated, annually, and  
11.28 upon complaint by the end user to the telecommunications provider;

11.29 (7) block the use of certain telecommunications services at the request of the end  
11.30 user until the end user requests that blocking of the services be discontinued, except  
11.31 that this provision is only applicable to the extent blocking for the telecommunications  
11.32 service is available;

11.33 (8) provide directory assistance to its end users, either directly or by contracting with  
11.34 a third party, and provide for a credit to an end user who informs the directory assistance

12.1 provider that the provider has given the end user incorrect information for which the  
 12.2 telecommunications provider charged the end user a fee;

12.3 (9) provide a periodic billing statement consistent with the federal truth-in-billing  
 12.4 standards to each end user in paper format, unless the end user has elected to receive the  
 12.5 billing statement in electronic format, except that a telecommunications provider whose  
 12.6 billing system is not capable of providing an electronic billing statement is not required  
 12.7 to provide billing in an electronic format;

12.8 (10) provide 30 days' advance notice to its end users of a rate increase for any  
 12.9 telecommunications service;

12.10 (11) not charge an end user for a telecommunications service for which the end user  
 12.11 did not explicitly contract or authorize the utilization of the service;

12.12 (12) not change an end user's telecommunications service without explicit  
 12.13 authorization from the end user; and

12.14 (13) not include on an end user's bill a charge for goods or services on behalf of a  
 12.15 third-party service provider unless the third-party service provider has obtained the end  
 12.16 user's authorization to include the charges on the end user's bill.

12.17 (b) This section does not apply to advanced service providers.

12.18 **Sec. 9. [237A.09] UNAUTHORIZED CHANGE OF TELECOMMUNICATIONS**  
 12.19 **PROVIDER.**

12.20 **Subdivision 1. End user must authorize change in telecommunications provider.**  
 12.21 The telecommunications provider of any end user must not be changed, in whole or in  
 12.22 part, to another telecommunications provider without authorization from the end user. The  
 12.23 end user's authorization must be evidenced either by written or electronic authorization  
 12.24 signed by the subscriber or by the use of an independent third-party verification company.

12.25 **Subd. 2. Telecommunications provider freeze.** A telecommunications provider  
 12.26 freeze prevents a change in the end user's telecommunications provider unless the end  
 12.27 user gives the telecommunications provider that is providing the freeze express consent  
 12.28 for the change. All telecommunications providers capable of providing freezes shall  
 12.29 notify an end user of the end user's right to place a freeze on the end user's account. End  
 12.30 user notification required by this section must utilize uniform, competitively neutral  
 12.31 language and the form, content, and style of the authorization must be consistent with  
 12.32 state and federal law and regulation. An end user may change the end user's freeze at  
 12.33 any time by notifying the telecommunications provider of that decision. A separate  
 12.34 freeze authorization must be obtained by the telecommunications provider for local



13.1 exchange service, intraLATA/intrastate toll service, interLATA/interstate toll service, and  
13.2 international toll service.

13.3 Subd. 3. **Before change.** Before requesting a change in an end user's  
13.4 telecommunications provider, the telecommunications provider must confirm:

13.5 (1) the end user's identity with information unique to the end user, unless the end  
13.6 user refused to provide identifying information, but if the end user refused to provide  
13.7 identifying information, that fact should be noted;

13.8 (2) that the end user has been informed of the offering made by the  
13.9 telecommunications provider;

13.10 (3) that the end user understands that the end user is being requested to change  
13.11 telecommunications providers;

13.12 (4) that the end user has the authority to authorize the change; and

13.13 (5) that the end user agrees to the change.

13.14 Subd. 4. **Verification procedures.** (a) End user authorization for a change in the  
13.15 end user's telecommunications provider may be verified using a third-party verification  
13.16 procedure that complies with federal law or regulation. The requirement that the  
13.17 telecommunications provider be able to produce evidence of end user authorization is  
13.18 satisfied if the telecommunications provider uses a federally authorized verification  
13.19 procedure. All verifications must be performed by an independent third-party verification  
13.20 company. Notwithstanding this section, if federal law or regulation authorizes a  
13.21 telecommunications provider to use a negative checkoff verification procedure, and the  
13.22 provider does so, the provider must be able to produce a recording of the initial oral  
13.23 authorization by the end user to change telecommunications providers as evidence of the  
13.24 authorization. The initial oral authorization must include confirmation of the requirements  
13.25 of subdivision 3.

13.26 (b) The independent third-party verification company must:

13.27 (1) be independent of the telecommunications provider that seeks to provide the  
13.28 end user's new service;

13.29 (2) not be managed, controlled, directed, or owned in whole or in part by the  
13.30 telecommunications provider that seeks to provide the end user's new service;

13.31 (3) operate from facilities physically separate from those of the telecommunications  
13.32 provider that seeks to provide the end user's new service; and

13.33 (4) not derive commissions or compensation based upon the number of sales  
13.34 confirmed.

13.35 (c) For purposes of this subdivision, "negative checkoff" means a verification  
13.36 procedure that consists of:

14.1 (1) an initial oral authorization by the end user to change telecommunications  
14.2 providers; and

14.3 (2) a mailing to the end user by the soliciting telecommunications provider regarding  
14.4 the change in telecommunications providers which informs the end user that if the end  
14.5 user fails to cancel the change in telecommunications providers, the change will be  
14.6 deemed authorized and verified.

14.7 Subd. 5. **Penalty for unauthorized changes.** If the telecommunications provider  
14.8 is not able to present, upon complaint by the end user, evidence that complies with this  
14.9 section, the change to the service of the telecommunications provider is deemed to be  
14.10 unauthorized from the date the telecommunications provider requested the change. In that  
14.11 event, the telecommunications provider shall bear all costs of:

14.12 (1) immediately returning the end user to the original service provider of the end  
14.13 user; and

14.14 (2) serving that end user during the period of unauthorized service.

14.15 Subd. 6. **No application to advanced service providers.** This section does not  
14.16 apply to advanced service providers.

14.17 **Sec. 10. [237A.10] UNAUTHORIZED CHARGE FOR GOODS AND SERVICES.**

14.18 Subdivision 1. **Authorization required for charges for goods or services.** A  
14.19 telecommunications provider shall not add charges for goods or services to an end user's  
14.20 bill without the end user's authorization.

14.21 Subd. 2. **Billing for third-party goods and services.** (a) A telecommunications  
14.22 provider or a third-party provider shall not include on an end user's bill a charge for  
14.23 goods or services sold by the third party unless the third-party service provider or the  
14.24 telecommunications provider has:

14.25 (1) received authorization from the end user, as described in paragraphs (b) through  
14.26 (d), to include charges for third-party goods and services on the end user's bill;

14.27 (2) advised the end user of the expected charges for the third-party goods and  
14.28 services; and

14.29 (3) provided the end user with a ready means to cancel the third-party goods and  
14.30 services.

14.31 (b) Written authorization may be in the form of a letter of agency, which must be  
14.32 a separate or easily separable document. The sole purpose of the letter of agency must  
14.33 be to authorize a charge for goods or services to appear on the end user's bill. The letter  
14.34 of agency must be of sufficient size to be clearly legible and must contain clear and  
14.35 unambiguous language that contains separate statements for each good or service for

15.1 which the end user is agreeing to be billed. The letter of agency must be signed and  
15.2 dated by the end user.

15.3 (c) Oral authorizations must be verified by an independent third-party verifier. The  
15.4 verification is valid only if:

15.5 (1) the independent third-party verifier confirms the end user's identity with  
15.6 information unique to the end user, except that if the end user refuses to provide the  
15.7 information, that fact must be noted; and

15.8 (2) the independent third-party verifier informs the end user that the end user is  
15.9 agreeing to be billed for goods or services that will appear as a charge on the end user's bill.

15.10 (d) Electronic authorizations must be validated within 48 hours of receiving the  
15.11 end user's authorization by sending the end user a notice of verification confirming the  
15.12 authorization. The third-party service provider shall maintain a copy of the notice of  
15.13 verification for the duration of the goods and services appearing as a charge on the end  
15.14 user's bill.

15.15 Subd. 3. **Billing for telecommunications services.** A telecommunications provider  
15.16 shall not include on an end user's bill a charge for telecommunications services unless the  
15.17 telecommunications provider has:

15.18 (1) received authorization, either orally, electronically, or in writing from the end  
15.19 user to include charges for telecommunications services on the end user's bill; and

15.20 (2) advised the end user of the expected charges for the telecommunications services.

15.21 Subd. 4. **Penalty for unauthorized charges.** If the telecommunications provider  
15.22 or third-party provider is not able to present, upon complaint by the end user, evidence  
15.23 that complies with this section, the charge for the service of the telecommunications  
15.24 provider or third-party provider is deemed to be unauthorized. In that event, the  
15.25 telecommunications provider or third-party provider shall:

15.26 (1) remove the unauthorized charge from the end user's bill; and

15.27 (2) credit the end user any amounts paid for the unauthorized charges that were  
15.28 billed by the telecommunications provider or third-party provider during the six months  
15.29 before the end user's complaint, unless the telecommunications provider or third-party  
15.30 service provider can produce within 14 calendar days of the complaint evidence to the  
15.31 end user of authorization by the end user.

15.32 Subd. 5. **No application to advanced service providers.** This section does not  
15.33 apply to advanced service providers.

15.34 **UNIVERSAL SERVICE FUND**

15.35 Sec. 11. **[237A.11] UNIVERSAL SERVICE FUND.**

16.1        Notwithstanding section 237A.02, subdivision 1, paragraph (b), the commission  
16.2 may by rule establish and require contributions to a universal service fund, to be  
16.3 supported on an equitable, competitively neutral, and nondiscriminatory basis. Services  
16.4 that should be considered for inclusion as universal include, at a minimum, single-party  
16.5 voice service including access, usage, and touch tone capability; line quality capable of  
16.6 carrying facsimile and data transmissions; equal access; emergency services number  
16.7 capability; statewide telecommunications relay service for the hearing impaired; and  
16.8 blocking of long-distance toll services. The fund shall be administered and distributed in  
16.9 accordance with rules adopted by the commission and designed to preserve the availability  
16.10 of universal service throughout the state. If the commission establishes a fund under  
16.11 this section, the commission shall establish a reasonable statewide benchmark rate that  
16.12 local exchange carriers shall either impute or charge their end user prior to obtaining  
16.13 reimbursement from the fund. Any state universal service fund must be coordinated with  
16.14 any federal universal service fund and be consistent with the requirements of Section  
16.15 254(b)(1) to (5) of the 1996 Act.

16.16                    **MUNICIPAL TELEPHONE SERVICES**

16.17        Sec. 12. **[237A.12] MUNICIPAL TELECOMMUNICATIONS SERVICES.**

16.18        Any municipality shall have the right to own and operate a telephone exchange  
16.19 within its own borders, subject to the provisions of this chapter. It may construct a plant,  
16.20 or purchase an existing plant by agreement with the owner, or where it cannot agree  
16.21 with the owner on price, it may acquire an existing plant by condemnation. In no case  
16.22 shall a municipality construct or purchase a plant or proceed to acquire an existing plant  
16.23 by condemnation until that action is authorized by a majority of the electors voting  
16.24 upon the proposition at a general election or a special election called for that purpose.  
16.25 If the proposal is to construct a new exchange where an exchange already exists, the  
16.26 municipality is not authorized to do so unless 65 percent of those voting vote in favor of  
16.27 the undertaking. A municipality that owns and operates a telephone exchange may enter  
16.28 into a joint venture as a partner or shareholder with a telecommunications organization to  
16.29 provide telecommunications services within its service area.

16.30        Sec. 13. **[237A.13] CONDEMNATION: NOTICE, COMPENSATION, APPEAL.**

16.31        When a municipality decides to acquire an existing plant by condemnation as  
16.32 provided in section 237A.11, it shall give notice to the commission. The commission  
16.33 shall determine the just compensation that the owner of the plant is entitled to receive  
16.34 from the municipality. Before deciding upon the compensation, the commission shall, at

17.1 a public meeting that may be convened from time to time, hear all interested parties on  
17.2 the question involved. The commission shall by order fix the compensation and furnish a  
17.3 copy of its order to the municipality and to the telephone company concerned. A party  
17.4 may appeal to the district court of the county in which the plant is situated the part of the  
17.5 order fixing the compensation to be paid within 30 days. The appeal shall be tried the  
17.6 same as other appeals under this chapter. If not appealed, the order of the commission  
17.7 becomes final after 30 days.

17.8 **ASSESSMENTS**

17.9 Sec. 14. **[237A.14] ASSESSMENT OF REGULATORY EXPENSES.**

17.10 Subdivision 1. **Assessment of costs.** The commission shall quarterly, at least 30  
17.11 days before the start of each quarter, estimate the total of the commission's expenditures  
17.12 in the performance of the commission's duties relating to telecommunications providers,  
17.13 other than amounts chargeable to telecommunications providers under subdivision 4.  
17.14 This amount must be assessed by the commission to the telecommunications providers  
17.15 operating in this state in proportion to their respective gross jurisdictional operating  
17.16 revenues during the last calendar year. The assessment must be paid into the state treasury  
17.17 within 30 days after the bill has been transmitted via mail, personal delivery, or electronic  
17.18 service to the telecommunications providers. The bill constitutes notice of the assessment  
17.19 and demand of payment. The total amount that may be assessed to the telecommunications  
17.20 providers under this subdivision may not exceed 3/32 of one percent of the total gross  
17.21 jurisdictional operating revenues during the calendar year. The assessment for the third  
17.22 quarter of each fiscal year shall be adjusted to compensate for the amount by which actual  
17.23 expenditures by the commission for the preceding fiscal year were less than the estimated  
17.24 expenditures previously assessed. A telecommunications provider with gross jurisdictional  
17.25 operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

17.26 Subd. 2. **Objection.** Within 30 days after the date of the transmittal of any bill as  
17.27 provided by subdivision 1 or 4, the parties to the proceeding, against which the bill has  
17.28 been assessed, may file with the commission objections setting out the grounds upon  
17.29 which it is claimed the bill is excessive, erroneous, unlawful, or invalid. The commission  
17.30 shall within 60 days issue an order in accordance with its findings. The order is appealable  
17.31 in the same manner as other final orders of the commission.

17.32 Subd. 3. **Interest imposed.** The amounts assessed against any telecommunications  
17.33 provider or other party that is not paid after 30 days after the transmittal of a notice  
17.34 advising the telecommunications provider or other party of the amount assessed against  
17.35 it shall draw interest at the rate of six percent per annum. Upon failure to pay the

18.1 assessment, the attorney general shall proceed by action in the name of the state against  
18.2 the telecommunications provider or other party to collect the amount due, accrued interest,  
18.3 and reasonable attorney fees and costs.

18.4 Subd. 4. **Administrative hearing costs; appropriation.** Any amounts billed to  
18.5 the commission by the Office of Administrative Hearings for contested case hearings  
18.6 held pursuant to section 237A.15, subdivision 5, shall be assessed by the commissioner  
18.7 against the parties to the proceeding. The assessment shall be paid into the state treasury  
18.8 within 30 days after a bill, which constitutes notice of the assessment and demand for  
18.9 payment of it, has been transmitted to the parties. Money received shall be credited to  
18.10 a special account and is appropriated to the commission for payment to the Office of  
18.11 Administrative Hearings.

18.12 Sec. 15. **[237A.15] PROPRIETARY INFORMATION.**

18.13 Subdivision 1. **Proprietary information to be protected.** The commission shall  
18.14 maintain the confidentiality of all proprietary information including trade secrets, business  
18.15 plans, and other confidential information that becomes known to the commission or  
18.16 comes into the commission's possession or control, and the commission shall not disclose  
18.17 proprietary information without adequate protection of the information and reasonable  
18.18 notice to the affected person.

18.19 Subd. 2. **Protective orders.** The commission shall have the authority to enter any  
18.20 protective order necessary and appropriate to maintain the confidentiality of proprietary  
18.21 information. The order may be entered only after giving the affected parties 30 days'  
18.22 advance notice and the opportunity to be heard in connection with the proposed protective  
18.23 order.

18.24 Subd. 3. **Public meetings of commission.** In any meeting of the commission during  
18.25 which information that is subject to a protective order is discussed, the commission shall  
18.26 close to all persons who are not authorized to obtain the information under the protective  
18.27 order that portion of the meeting during which the information will be discussed. The  
18.28 commission shall also take other appropriate measures to ensure that the data is not  
18.29 disclosed to persons who are not authorized to obtain the information under the protective  
18.30 order, to include sealing all or part of the hearing record.

18.31 Sec. 16. **[237A.16] COMMISSION ADMINISTRATIVE PROCEEDINGS,**  
18.32 **APPEALS, REMEDIES.**

19.1        Subdivision 1. **Rules and regulations.** The commission shall adopt rules and  
19.2 regulations consistent with this chapter to govern all matters over which the commission  
19.3 has jurisdiction within 180 days of the effective date of this chapter.

19.4        Subd. 2. **Complaint investigation and procedure.** Upon a complaint made against  
19.5 a telecommunications provider by any other provider of telecommunications service that  
19.6 any of the rates, charges, schedules, tariffs, terms, and conditions, or any regulation,  
19.7 practice, act, or omission affecting or relating to the production, transmission, delivery, or  
19.8 furnishing of telecommunications service, the commission shall, within 30 days of the  
19.9 filing of the complaint, review the complaint to determine whether it has jurisdiction over  
19.10 the matter and whether there are reasonable grounds to investigate the allegations. Upon  
19.11 concluding that it lacks jurisdiction or that there is no reasonable basis for the investigation,  
19.12 the commission shall promptly dismiss the complaint. If the commission finds that it has  
19.13 jurisdiction and that there is a reasonable basis for the investigation, the commission shall  
19.14 determine whether a contested case hearing shall be conducted under chapter 14.

19.15        Subd. 3. **Service; notice.** A copy of an order issued under this chapter must be  
19.16 served upon the person against whom it runs or the person's attorney. Notice of the order  
19.17 must be given to the other parties to the proceedings or their attorneys.

19.18        Subd. 4. **Transcribed copy of record; expense.** (a) The commission shall keep  
19.19 a full and complete record of all proceedings before it on any investigation or hearing,  
19.20 and the commission shall furnish a transcribed copy of the record to any party to the  
19.21 investigation upon request and payment of the expense of furnishing the transcribed copy.

19.22        (b) When an appeal is taken from any order of the commission under the provisions  
19.23 of this chapter, the commission shall prepare a certified transcript of all proceedings,  
19.24 pleadings and files, and testimony taken or offered before it upon which the order was  
19.25 based, showing particularly what, if any, evidence offered was excluded. The commission  
19.26 shall file the transcript with the court administrator of the district court where the appeal is  
19.27 pending.

19.28        Subd. 5. **Appeal from decision of commission.** Any party to a proceeding before  
19.29 the commission or the attorney general may make and perfect an appeal from the order  
19.30 in accordance with chapter 14. If the court finds from an examination of the record that  
19.31 the commission erroneously rejected evidence which should have been admitted, it shall  
19.32 remand the proceedings to the commission with instructions to receive the evidence  
19.33 rejected and any rebutting evidence and make new findings and return them to the court  
19.34 for further review. In that case the commission, after notice to the parties in interest, shall  
19.35 proceed to rehear the matter in controversy, and receive the wrongfully rejected evidence  
19.36 and any rebutting evidence offered and make new findings, as upon the original hearing,

20.1 and transmit it and the new record, properly certified, to the Court of Appeals, where the  
20.2 matter shall again be considered in the court in the same manner as in an original appeal.

20.3 Subd. 6. **Order final and conclusive.** If no appeal is taken from any order of the  
20.4 commission, as provided in subdivision 5, then in all future litigation arising between  
20.5 the state and any telecommunications provider or between private parties and any  
20.6 telecommunications provider, the order shall be deemed final and conclusive.

20.7 Subd. 7. **Attorney general to compel obedience.** When any telecommunications  
20.8 provider fails to comply with any law of the state or any order of the commission after it  
20.9 has become final, or any order or judgment of the district court, the Court of Appeals, or  
20.10 the Supreme Court in any cases taken to any of the courts on appeal, after the judgment or  
20.11 order has become final, the attorney general shall apply to the district court in the name of  
20.12 the state in any county in which the plant of the telecommunications provider, or any part  
20.13 of it, is situated, for a mandatory injunction or other appropriate writ to compel obedience  
20.14 to the law, order, or judgment. The district court shall punish any disobedience of its  
20.15 orders in the enforcement proceedings as for contempt of court.

20.16 Sec. 17. **[237A.17] VIOLATIONS; PENALTIES; ENFORCEMENT.**

20.17 Subdivision 1. **Actions.** This chapter and rules and orders of the commission  
20.18 adopted under this chapter may be enforced by any one or combination of criminal  
20.19 prosecution, action to recover civil penalties, injunction, action to compel performance,  
20.20 and other appropriate action.

20.21 Subd. 2. **Civil penalty.** A person who knowingly and intentionally violates a  
20.22 provision of this chapter or rule or order of the commission adopted under this chapter  
20.23 shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of  
20.24 at least \$100 and not more than \$5,000 for each day of each violation.

20.25 Subd. 3. **Civil penalty proceeds deposited in treasury.** The civil penalties  
20.26 provided for in this section may be recovered by a civil action brought by the attorney  
20.27 general in the name of the state. Amounts recovered under this section must be paid  
20.28 into the state treasury.

20.29 Sec. 18. **[237A.18] OBTAINING SERVICE BY FRAUD; INJUNCTION.**

20.30 Subdivision 1. **Equitable relief.** Whenever it appears that a person is engaged in  
20.31 an act that constitutes or will constitute a violation of section 609.893, a representative  
20.32 of a telecommunications provider or a person harmed by an alleged violation of section  
20.33 609.893 may begin a civil proceeding in a district court to enjoin the violation and may  
20.34 petition the court to issue an order for the discontinuance of telecommunications service.



21.1           Subd. 2. **Venue.** An action under this section must be brought in the county in  
21.2 which subject matter of the action, or some part of it, is located or found, and must be  
21.3 commenced by the filing of a complaint that must be verified by affidavit.

21.4           Subd. 3. **Temporary restraining order.** If it is shown to the satisfaction of the  
21.5 court, either by verified complaint or affidavit, that a person is engaged in an act that  
21.6 constitutes a violation of section 609.893, the court shall issue a temporary restraining  
21.7 order to abate and prevent the continuance or recurrence of the act. Notice of the  
21.8 complaint shall be given and a hearing on the issuance of a temporary restraining order  
21.9 shall be held under the Rules of Civil Procedure. The court shall direct the county sheriff  
21.10 to seize and keep until further order of the court any device that is being used in violation  
21.11 of section 609.893. The temporary restraining order expires after ten days.

21.12           Subd. 4. **Permanent injunction.** The court may issue a permanent injunction  
21.13 to restrain, abate, or prevent the continuance or recurrence of the violation of section  
21.14 609.893. The court may grant declaratory relief, mandatory orders, or any other relief  
21.15 it judges necessary to accomplish the purposes of the injunction. The court may keep  
21.16 jurisdiction of the case for the purpose of enforcing its orders.

21.17           Subd. 5. **Discontinuance of telecommunications service.** If it is shown to the  
21.18 satisfaction of the court, by affidavit, that a person is engaged in an act that constitutes a  
21.19 violation of section 609.893, the court may issue an order that shall be promptly served  
21.20 upon the person in whose name the telecommunications device is listed, requiring the  
21.21 party, within a reasonable time to be fixed by the court but not exceeding 48 hours from  
21.22 the time of service of the petition on the party, to show cause before the judge why  
21.23 telecommunications service should not promptly be discontinued. At the hearing, the  
21.24 burden of proof is on the complainant.

21.25           Subd. 6. **Disconnect order.** Upon a finding by the court that the telecommunications  
21.26 device is being used or has been used in violation of section 609.893, the court shall  
21.27 issue an order requiring the telecommunications provider that is rendering service over  
21.28 the device to disconnect the service. The order shall be served upon an officer of the  
21.29 telecommunications provider by the sheriff of the county in which the telecommunications  
21.30 device is installed or by a duly authorized deputy. Upon receipt of the order, the  
21.31 telecommunications provider shall proceed promptly to disconnect and remove the service  
21.32 and discontinue all telecommunications service until further order of the court.

21.33           Subd. 7. **Immunity.** No telecommunications provider is liable for any damages,  
21.34 penalty, or forfeiture, whether civil or criminal, for an act performed in compliance with  
21.35 an order issued by the court.

22.1 Sec. 19. **[237A.19] NO PRIVATE CAUSE OF ACTION.**

22.2 Nothing in this chapter shall be construed to create any private cause of action  
22.3 or right to relief for any person or entity.

22.4 Sec. 20. **EFFECTIVE DATE.**

22.5 Sections 1 to 19 are effective .....

22.6 **ARTICLE 2**

22.7 **CONFORMING CHANGES**

22.8 Section 1. Minnesota Statutes 2010, section 237.081, is amended to read:

22.9 **237.081 INVESTIGATION.**

22.10 ~~Subdivision 1. **Commission investigation.** Whenever the commission believes~~  
22.11 ~~that a service is inadequate or cannot be obtained or that an investigation of any matter~~  
22.12 ~~relating to any telephone service should for any reason be made, it may on its own motion~~  
22.13 ~~investigate the service or matter with or without notice, except that the commission shall~~  
22.14 ~~give notice to a telephone company before it investigates the level of rates charged by~~  
22.15 ~~the company.~~

22.16 Subd. 1a. **Complaint investigation.** Upon a complaint made against a telephone  
22.17 company by any other provider of telephone service, by the governing body of a political  
22.18 subdivision, or by no fewer than five percent or 100, whichever is the lesser number, of  
22.19 the subscribers or spouses of subscribers of the particular telephone company, that any of  
22.20 the rates, tolls, tariffs, charges, or schedules, or any regulation, measurement, practice, act,  
22.21 or omission affecting or relating to the production, transmission, delivery, or furnishing of  
22.22 telephone service or any service in connection with telephone service is in any respect  
22.23 unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or  
22.24 cannot be obtained, as provided for in section 237.56, that a violation of sections 237.50  
22.25 to 237.55 has occurred, the commission, after notice to the telephone company affected  
22.26 persons, shall investigate the matters raised by the complaint.

22.27 Subd. 2. **Procedure after investigation.** (a) If, after making an investigation under  
22.28 subdivision ~~1~~ or 1a, the commission finds that a significant factual issue raised has not  
22.29 been resolved to its satisfaction, the commission shall follow the appropriate procedure  
22.30 prescribed by this subdivision.

22.31 ~~(b) For an investigation concerning the reasonableness of the rates for noncompetitive~~  
22.32 ~~services of a telephone company whose general revenue requirement is determined under~~  
22.33 ~~section 237.075, the commission shall order the company to initiate a rate proceeding in~~

23.1 ~~accordance with section 237.075. The commission shall allow the company at least 120~~  
 23.2 ~~days after the date of the commission's order to initiate the proceeding.~~

23.3 ~~(c) For other investigations, the commission shall order that a contested case hearing~~  
 23.4 ~~be conducted under chapter 14 unless the complainant, the telephone company, and the~~  
 23.5 ~~commission agree that an expedited hearing under section 237.61 is appropriate.~~

23.6 Subd. 4. **Establishment of rate and price Order required.** Whenever the  
 23.7 commission finds, after a proceeding under subdivision 2, that ~~(1) a service that can be~~  
 23.8 ~~reasonably demanded cannot be obtained, (2) that any rate, toll, tariff, charge, or schedule,~~  
 23.9 ~~or any regulation, measurement, practice, act, or omission affecting or relating to the~~  
 23.10 ~~production, transmission, delivery, or furnishing of telephone service or any service in~~  
 23.11 ~~connection with telephone service, is in any respect unreasonable, insufficient, or unjustly~~  
 23.12 ~~discriminatory, or (3) that any service is inadequate~~ a violation of sections 237.50 to  
 23.13 237.55 has occurred, the commission shall make issue an order ~~respecting the tariff,~~  
 23.14 ~~regulation, act, omission, practice, or service that is just and reasonable and, if applicable,~~  
 23.15 ~~shall establish just and reasonable rates and prices~~ with respect to the violation and order  
 23.16 appropriate action to remedy the violation.

23.17 Subd. 5. **Service; notice.** A copy of an order issued under this section must be  
 23.18 served upon the person against whom it runs or the person's attorney, and notice of the  
 23.19 order must be given to the other parties to the proceedings or their attorneys.

23.20 Sec. 2. Minnesota Statutes 2010, section 237.50, is amended by adding a subdivision  
 23.21 to read:

23.22 Subd. 10a. **Radio common carrier.** "Radio common carrier" means a person, firm,  
 23.23 association, or corporation that owns, operates, or otherwise furnishes to the public any  
 23.24 paging or other mobile telecommunications service by means of the use of radio signals  
 23.25 and connection to a telephone network.

23.26 Sec. 3. Minnesota Statutes 2010, section 237.50, is amended by adding a subdivision  
 23.27 to read:

23.28 Subd. 10b. **Telecommunications carrier.** (a) "Telecommunications carrier" means  
 23.29 a person, firm, association, or corporation authorized to furnish one or more of the  
 23.30 following telephone services to the public, but not otherwise authorized to furnish local  
 23.31 exchange service:

23.32 (1) interexchange telephone service;

23.33 (2) local telephone service pursuant to a certificate granted under section 237.16,  
 23.34 subdivision 4, before August 1, 1995; or

24.1           (3) local service pursuant to a certificate granted under section 237.16, for the first  
24.2 time after August 1, 1995, except if granted to a successor to a telephone company  
24.3 otherwise authorized to furnish local exchange service.

24.4           (b) Telecommunications carrier does not include entities that derive more than 50  
24.5 percent of their revenues from operator services provided to transient locations such  
24.6 as hotels, motels, and hospitals.

24.7           (c) Telecommunications carrier does not include entities that provide centralized  
24.8 equal access service.

24.9           Sec. 4. Minnesota Statutes 2010, section 237.50, is amended by adding a subdivision  
24.10 to read:

24.11           Subd. 12. **Telephone company.** (a) "Telephone company" means and applies to any  
24.12 person, firm, association, or any corporation, private or municipal, owning or operating  
24.13 any telephone line or telephone exchange for hire, in whole or in part, within the state, or  
24.14 furnishing any telephone service to the public.

24.15           (b) A telephone company does not include a radio common carrier. A telephone  
24.16 company which also conforms with the definition of a radio common carrier is subject to  
24.17 regulation as a telephone company. However, none of this chapter applies to telephone  
24.18 company activities which conform to the definition of a radio common carrier.

24.19           (c) A telephone company does not include a telecommunications carrier, except that  
24.20 a telecommunications carrier is a telephone company for the purposes of section 222.36.

24.21           Sec. 5. Minnesota Statutes 2010, section 237.51, subdivision 1, is amended to read:

24.22           Subdivision 1. **Creation.** The commissioner of commerce shall:

24.23           (1) administer through interagency agreement with the commissioner  
24.24 of human services a program to distribute communication devices to eligible  
24.25 communication-impaired persons; and

24.26           (2) contract with a qualified vendor that serves communication-impaired persons  
24.27 to create and maintain a telecommunication relay service.

24.28           For purposes of sections 237.51 to 237.56, the Department of Commerce and any  
24.29 organization with which it contracts pursuant to this section or section 237.54, subdivision  
24.30 2, are not telephone companies or telecommunications carriers ~~as defined in section~~  
24.31 ~~237.01.~~

24.32           Sec. 6. Minnesota Statutes 2010, section 237.681, subdivision 1, is amended to read:

24.33           Subdivision 1. **Definitions.** For the purposes of this section:

25.1 (1) "private shared services" means the provision of telephone services and  
 25.2 equipment, the provision of video programming services, or the provision of broadband  
 25.3 services within a user group located in discrete private premises, in building complexes,  
 25.4 campuses, or high-rise buildings, by a commercial shared services provider or by a  
 25.5 user association, through privately owned customer premises equipment and associated  
 25.6 data processing and information management services and includes the provision of  
 25.7 connections to the facilities of a local exchange and to long-distance telephone companies;  
 25.8 ~~and~~

25.9 (2) "property owner" means a person who owns or, under a contract with the owner,  
 25.10 manages a building, property, complex, or other facility where private shared services  
 25.11 are provided; and

25.12 (3) "telephone company" means and applies to any person, firm, association or any  
 25.13 corporation, private or municipal, owning or operating any telephone line or telephone  
 25.14 exchange for hire, wholly or partly within this state, or furnishing any telephone service to  
 25.15 the public. A telephone company does not include a radio common carrier.

25.16 Sec. 7. Minnesota Statutes 2010, section 237.69, is amended by adding a subdivision  
 25.17 to read:

25.18 Subd. 15a. **Independent telephone company.** "Independent telephone company"  
 25.19 means a telephone company organized and operating under chapter 301 or 302A or  
 25.20 authorized to do business in Minnesota under chapter 303 as of January 1, 1983, and  
 25.21 providing local exchange service to fewer than 30,000 subscribers within the state.

25.22 Sec. 8. Minnesota Statutes 2010, section 237.69, is amended by adding a subdivision  
 25.23 to read:

25.24 Subd. 15b. **Radio common carrier.** "Radio common carrier" means a person, firm,  
 25.25 association, or corporation which owns, operates, or otherwise furnishes to the public any  
 25.26 paging or other mobile telecommunications service by means of the use of radio signals  
 25.27 and connection to a telephone network.

25.28 Sec. 9. Minnesota Statutes 2010, section 237.69, subdivision 17, is amended to read:

25.29 Subd. 17. **Telephone company.** "Telephone company" has the meanings given it in  
 25.30 section 237.01, subdivisions 3 and 7, that provides local exchange telephone service means  
 25.31 and applies to any person, firm, association, or any corporation, private or municipal,  
 25.32 owning or operating any telephone line or telephone exchange for hire, in whole or in part  
 25.33 within the state, or furnishing any telephone service to the public.

26.1        A telephone company does not include a radio common carrier. A telephone  
26.2        company that also conforms with the definition of a radio common carrier is subject to  
26.3        regulation as a telephone company; however, this chapter does not apply to telephone  
26.4        company activities that conform to the definition of a radio common carrier.

26.5        A telephone company does not include a telecommunications carrier, except that a  
26.6        telecommunications carrier is a telephone company for the purposes of section 222.36.

26.7        Sec. 10. **REPEALER.**

26.8        Minnesota Statutes 2010, sections 237.01, subdivisions 1, 3, 4, 6, 7, and 8; 237.011;  
26.9        237.012; 237.02; 237.03; 237.035; 237.036; 237.05; 237.06; 237.065; 237.066; 237.067;  
26.10       237.068; 237.069; 237.07; 237.071; 237.072; 237.075, subdivisions 1, 2, 3, 4, 5, 6, 7, 8,  
26.11       9, 10, and 11; 237.076; 237.082; 237.09; 237.10; 237.101; 237.11; 237.115; 237.12;  
26.12       237.121; 237.14; 237.15; 237.155; 237.16, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and  
26.13       13; 237.164; 237.17; 237.18; 237.19; 237.20; 237.21; 237.22; 237.23; 237.231; 237.24;  
26.14       237.25; 237.26; 237.27; 237.28; 237.295; 237.30; 237.33; 237.34; 237.35; 237.36; 237.37;  
26.15       237.38; 237.39; 237.40; 237.411; 237.414; 237.435; 237.44; 237.45; 237.46; 237.461,  
26.16       subdivisions 1, 2, and 4; 237.47; 237.57; 237.59, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, and  
26.17       10; 237.60, subdivisions 3 and 4; 237.61; 237.626; 237.64; 237.66, subdivisions 1, 1a, 1c,  
26.18       1d, 2, 2a, and 3; 237.661; 237.662; 237.663; 237.665; 237.67; 237.681, subdivision 5;  
26.19       237.73; 237.74; 237.75; 237.76; 237.761; 237.762; 237.763; 237.764; 237.765; 237.766;  
26.20       237.767; 237.768; 237.769; 237.770; 237.771; 237.772; 237.773, subdivisions 1, 2, 3, and  
26.21       4; 237.774; 237.775; 237.79; 237.80; and 237.81, are repealed.

26.22       Sec. 11. **EFFECTIVE DATE.**

26.23       Sections 1 to 10 are effective .....

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ARTICLE 2 CONFORMING CHANGES ..... Page.Ln 22.6

### **237.01 DEFINITIONS.**

Subdivision 1. **Generally.** As used in this chapter, the following terms have the meanings given.

Subd. 3. **Independent telephone company.** "Independent telephone company" means a telephone company organized and operating under chapter 301 or 302A or authorized to do business in Minnesota under chapter 303 as of January 1, 1983, and providing local exchange service to fewer than 30,000 subscribers within the state.

Subd. 4. **Radio common carrier.** "Radio common carrier" means a person, firm, association, or corporation which owns, operates, or otherwise furnishes to the public any paging or other mobile telecommunications service by means of the use of radio signals and connection to a telephone network.

Subd. 6. **Telecommunications carrier.** "Telecommunications carrier" means a person, firm, association, or corporation authorized to furnish one or more of the following telephone services to the public, but not otherwise authorized to furnish local exchange service: (1) interexchange telephone service; (2) local telephone service pursuant to a certificate granted under the authority of section 237.16, subdivision 4, before August 1, 1995; or (3) local service pursuant to a certificate granted under section 237.16, for the first time after August 1, 1995, except if granted to a successor to a telephone company otherwise authorized to furnish local exchange service. Telecommunications carrier does not include entities that derive more than 50 percent of their revenues from operator services provided to transient locations such as hotels, motels, and hospitals. In addition, telecommunications carrier does not include entities that provide centralized equal access services.

Subd. 7. **Telephone company.** "Telephone company," means and applies to any person, firm, association or any corporation, private or municipal, owning or operating any telephone line or telephone exchange for hire, wholly or partly within this state, or furnishing any telephone service to the public.

A "telephone company" does not include a radio common carrier as defined in subdivision 4. A telephone company which also conforms with the definition of a radio common carrier is subject to regulation as a telephone company. However, none of chapter 237 applies to telephone company activities which conform to the definition of a radio common carrier.

A "telephone company" does not include a telecommunications carrier as defined in subdivision 6, except that a telecommunications carrier is a telephone company for the purposes of section 222.36. A telephone company is not subject to section 237.74.

Subd. 8. **Local exchange carrier.** "Local exchange carrier" means a telephone company or telecommunications carrier providing local exchange service.

### **237.011 TELECOMMUNICATIONS GOALS.**

The following are state goals that should be considered as the commission executes its regulatory duties with respect to telecommunication services:

- (1) supporting universal service;
- (2) maintaining just and reasonable rates;
- (3) encouraging economically efficient deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission;
- (4) encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner;
- (5) maintaining or improving quality of service;
- (6) promoting customer choice;
- (7) ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service; and
- (8) encouraging voluntary resolution of issues between and among competing providers and discouraging litigation.

### **237.012 BROADBAND GOALS.**

Subdivision 1. **Universal access and high-speed goal.** It is a state goal that as soon as possible, but no later than 2015, all state residents and businesses have access to high-speed broadband that provides minimum download speeds of ten to 20 megabits per second and minimum upload speeds of five to ten megabits per second.

Subd. 2. **State broadband leadership position.** It is a goal of the state that by 2015 and thereafter, the state be in:



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(1) the top five states of the United States for broadband speed universally accessible to residents and businesses;

(2) the top five states for broadband access; and

(3) the top 15 when compared to countries globally for broadband penetration.

Subd. 3. **Annual reports.** The commissioner of commerce must annually by February 10 report on the achievement of the goals under subdivisions 1 and 2 to the chairs and ranking minority members of the legislative committees with primary jurisdiction over telecommunication issues. The report on goals under subdivision 1 must be made through 2015.

### **237.02 GENERAL AUTHORITY OF DEPARTMENT AND COMMISSION; DEFINITIONS.**

The Department of Commerce and the Public Utilities Commission are hereby vested with the same jurisdiction and supervisory power over telephone and telecommunications companies doing business in this state as the commission's predecessor, the railroad and warehouse commission, had over railroad and express companies. The definitions set forth in sections 216A.02 and 216B.02 also apply to this chapter.

### **237.03 SCOPE OF LAW.**

Except as otherwise provided in this chapter, all the provisions of Revised Laws 1905, chapter 28, and acts amendatory thereof applying to railroad and express companies, shall insofar as the same are applicable apply also to telephone companies.

### **237.035 TELECOMMUNICATIONS CARRIER EXEMPTION.**

(a) Telecommunications carriers are subject to regulation under this chapter only to the extent required under paragraphs (b) to (e).

(b) Telecommunications carriers shall comply with sections 237.121 and 237.74.

(c) Telecommunications carriers shall comply with section 237.16, subdivisions 8 and 9.

(d) To the extent a telecommunications carrier offers local service, it shall obtain a certificate under section 237.16 for that local service.

(e) In addition, a telecommunications carrier's local service is subject to this chapter except that:

(1) a telecommunications carrier is not subject to rate-of-return or earnings investigations under section 237.075 or 237.081; and

(2) a telecommunications carrier is not subject to section 237.22.

### **237.036 COIN-OPERATED OR PUBLIC PAY TELEPHONES.**

(a) Neither commission approval nor a commission certificate is required to:

(1) site a coin-operated or public pay telephone in the state; or

(2) implement changes in service, services offered, rates, or location regarding a coin-operated or public pay telephone. Registration under section 237.64 is required to own or operate a coin-operated or public pay telephone in the state.

(b) This section does not change the authority of other state or local government entities to regulate aspects of coin-operated or public pay telephone ownership, location, or operation; however, an entity may not regulate aspects of these services that it did not regulate prior to May 26, 1999. The commission shall retain the authority delegated to it under federal and state law to protect the public interest with regard to coin-operated or public pay telephones.

(c) Owners and operators of coin-operated or public pay telephones are exempt from sections 237.06, 237.07, 237.075, 237.09, 237.23, 237.295, and 237.39 and the annual reporting requirement of section 237.11.

(d) Owners of coin-operated or public pay telephones shall:

(1) provide immediate coin-free access, to the extent technically feasible, to 911 emergency service or to another approved emergency service; and

(2) provide free access to the telecommunications relay service for the communication impaired.

(e) Owners of coin-operated or public pay telephones must post at each coin-operated or public pay telephone location:

(1) customer service and complaint information, including the name, address, and telephone number of the owner of the coin-operated or public pay telephone and the operator service handling calls from the coin-operated or public pay telephone; a toll-free number of the

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appropriate telephone company for the resolution of complaints; and the toll-free number of the public utilities commission; and

(2) a toll-free number at which consumers can obtain pricing information regarding rates, charges, terms, and conditions of local and long-distance calls.

### **237.05 ENFORCEMENT AUTHORITY.**

The department shall see that the provisions of section 237.04 are enforced; and, for that purpose shall have power to cause the removal or reconstruction of such telephone, telegraph, electric light, power, or other electric wires of any kind crossing or paralleling such other lines and not in accordance with the orders and rules issued by the department.

### **237.06 RATES AND DEPOSITS.**

It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful. Any telephone company may include in its charges a reasonable deposit fee for facilities furnished.

### **237.065 RATE FOR SCHOOL OR PURCHASING COOPERATIVE.**

Subdivision 1. **Basic service; flat rate.** Each telephone company that provides local telephone service in a service area that includes a school that has classes within the range from kindergarten to 12th grade shall provide, upon request, additional service to the school that is sufficient to ensure access to basic telephone service from each classroom and other areas within the school, as determined by the school board. Each company shall set a flat rate for this additional service that is less than the company's flat rate for an access line for a business and the same as or greater than the company's flat rate for an access line for a residence in the same local telephone service exchange. When a company's flat rates for businesses and residences are the same, the company shall use the residential rate for service to schools under this section. The rate required under this section is available only for a school that installs additional service that includes access to basic telephone service from each classroom and other areas within the school, as determined by the school board.

Subd. 2. **Basic and advanced telecommunication service; reduced rate.** (a) Notwithstanding the provisions of sections 237.09, 237.14, 237.60, subdivision 3, and 237.74, each telephone company and telecommunications carrier that provides local telephone service in a service area that includes a school that has classes within the range from kindergarten to grade 12, a public library, or a telecommunication services purchasing cooperative may provide, upon request, basic and advanced telecommunication services at reduced or no cost to that school, library, or may provide, upon request, advanced telecommunication services at reduced wholesale rates to the members of a telecommunication services purchasing cooperative. For purposes of this section, a "telecommunication services purchasing cooperative" means a cooperative organized under section 308A.210. A school or library receiving telecommunications services at reduced or no cost may not resell or sublease the discounted services. No members of a telecommunication services purchasing cooperative may resell or sublease the discounted services. A purchasing cooperative is not required to negotiate or provide a uniform rate for its members. Telecommunications services shall be provided in accordance with Public Law 104-104, and the regulations of the Federal Communications Commission adopted under the act.

(b) An agent that provides telecommunications services to a school or library may request the favorable rate on behalf of and for the exclusive benefit of the school or library. The school or library must authorize the agent to make the request of the local telephone company or telecommunications carrier. The telephone company or telecommunications carrier is not required to offer the same price discount to the agent that it would offer to the school district or library. An agent that receives a price discount for telecommunications services on behalf of a school or library may only resell or sublease the discounted services to that school or library.

(c) For the purposes of this subdivision, "school" includes a public school as defined in section 120A.05, nonpublic, and church or religious organization schools that provide instruction in compliance with sections 120A.22, 120A.24, and 120A.41.

### **237.066 STATE GOVERNMENT PRICING PLANS.**

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Subdivision 1. **Purpose.** A state government telecommunications pricing plan is authorized and found to be in the public interest as it will:

- (1) provide and ensure availability of high-quality, technologically advanced telecommunications services at a reasonable cost to the state; and
- (2) further the state telecommunications goals as set forth in section 237.011.

Subd. 2. **Program participation.** A state government telecommunications pricing plan may be available to serve individually or collectively: state agencies; educational institutions, including public schools complying with section 120A.05, subdivision 9, 11, 13, or 17, and nonpublic schools complying with sections 120A.22, 120A.24, and 120A.41; private colleges; public corporations; and political subdivisions of the state. Plans shall be available to carry out the commissioner of administration's duties under sections 16E.17 and 16E.18 and shall also be available to those entities not using the commissioner for contracting for telecommunications services.

Subd. 3. **Rates.** Notwithstanding section 237.09, 237.14, 237.60, subdivision 3, or 237.74, a telephone company or a telecommunications carrier may, individually or in cooperation with other telephone companies or telecommunications carriers, develop and offer basic or advanced telecommunications services at discounted or reduced rates as a state government telecommunications pricing plan. Any telecommunications services provided under any state government telecommunications pricing plan shall be used exclusively by those entities described in subdivision 2 subject to the plan solely for their own use and shall not be made available to any other entities by resale, sublease, or in any other way.

Subd. 4. **Applicability to other customers.** A telephone company or telecommunications carrier providing telecommunications services under a state government telecommunications pricing plan is not required to provide any other person or entity those services at the rates made available to the state.

Subd. 5. **Commission review.** The terms and conditions of any state government telecommunications pricing plan must be submitted to the commission for its review and approval within 90 days before implementation to:

- (1) ensure that the terms and conditions benefit the state and not any private entity;
- (2) ensure that the rates for any telecommunications service in any state government telecommunications pricing plan are at or below any applicable tariffed rates; and
- (3) ensure that the state telecommunications pricing plan meets the requirements of this section and is in the public interest.

The commission shall reject any state government telecommunications pricing plan that does not meet these criteria.

### **237.067 ESTABLISHMENT EXEMPT FROM REGULATION.**

Subdivision 1. **Definition.** For purposes of this section, "establishment" means an individual hotel, motel, restaurant, lodging house, boarding house, resort, or place of refreshment licensed under chapter 157.

Subd. 2. **Exemption; conditions.** An establishment that provides telephone service to patrons on the premises of the establishment is not subject to regulation under this chapter, except that the establishment:

- (1) shall comply with the requirement of section 237.06 that rates charged must be fair and reasonable;
- (2) shall provide notice of charges and service providers to patrons as required in section 325F.99; and
- (3) is subject to the complaint and investigation procedures of section 237.081.

### **237.068 MULTIPARTY LINE TELEPHONE SERVICE.**

After October 31, 1993, no telephone company may offer or provide multiparty line telephone service to more than two subscribers per line, unless otherwise approved by the commission.

### **237.069 TRACER; HARASSING TELEPHONE CALL; RULES.**

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The commission shall adopt rules to govern how telephone companies respond to requests for tracers made by persons who allege receiving harassing telephone calls. The rules must address when a request for a tracer may be denied or delayed.

### **237.07 FILING REQUIREMENTS.**

Subdivision 1. **Filing of charges.** Every telephone company shall keep on file with the department a specific rate, toll, or charge for every kind of noncompetitive service and a price list for every kind of service subject to emerging competition, together with all rules and classifications used by it in the conduct of the telephone business, including limitations on liability. The filings are governed by chapter 13. When a company sells services subject to emerging competition on an individually priced basis, it shall file a statement of the charges to its customers with the commission and the department. The department shall require each telephone company to keep open for public inspection, at designated offices, so much of these rates, price lists, and rules as it deems necessary for the public information.

Subd. 2. **Separate pricing.** When competitive services or service elements or services on an individually priced basis are sold in conjunction with noncompetitive services or service elements, the telephone company shall file or have on file with the commission and the department separate prices for its services subject to emerging competition and noncompetitive services or service elements. Telephone services or service elements must be offered on a nondiscriminatory basis.

### **237.071 SPECIAL PRICING.**

Except as prohibited by section 237.60, subdivision 3, prices unique to a particular customer or group of customers may be allowed for noncompetitive services and for services subject to emerging competition when differences in the cost of providing a service or a service element justifies a different price for a particular customer or group of customers. Individual pricing for services subject to emerging competition may be allowed when a uniform price should not be required because of market conditions. Unique or individual prices for services or service elements in effect before July 1, 1989, are deemed to have been approved under this section.

### **237.072 LIMITATION ON RATE CHANGE.**

(a) After December 15, 1997, the commission, notwithstanding any provision to the contrary, shall not allow an incumbent telephone company with more than 1,000,000 access lines in Minnesota to change its retail rates for telecommunications services without a determination of its revenue requirement pursuant to section 237.075 unless the incumbent telephone company is regulated pursuant to sections 237.76 to 237.773.

(b) If, prior to December 15, 1997, the incumbent telephone company petitions the commission to become subject to an alternative regulation plan under sections 237.76 to 237.773, paragraph (a) shall not apply to the petitioning company until 270 days after the date of the filing of the petition.

### **237.075 RATE CHANGE.**

Subdivision 1. **Notice.** Unless the commission otherwise orders, no telephone company shall change a rate which has been duly established under this chapter, except upon 60 days' notice to the commission. The notice shall include statements of facts, expert opinions, substantiating documents, and exhibits, supporting the change requested, and state the change proposed to be made in the rates then in force and the time when the modified rates will go into effect. The filing telephone company shall give written notice, as approved by the commission, of the proposed change to the governing body of each municipality and county in the area affected. All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon schedules on file and in force at the time.

Subd. 2. **Suspension of proposed rate; hearing; final determination defined.** (a) Whenever there is filed with the commission as provided in subdivision 1 a schedule modifying or resulting in a change in any rate then in force, the commission may suspend the operation of the schedule by filing with the schedule of rates and delivering to the affected telephone company a statement in writing of its reasons for the suspension at any time before the rates become effective. The suspension shall not be for a longer period than ten months beyond the initial filing date except as provided in paragraph (b). During the suspension the commission shall determine whether all questions of the reasonableness of the rates requested raised by persons deemed

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interested or by the department can be resolved to the satisfaction of the commission. If the commission finds that all significant issues raised have not been resolved to its satisfaction, or upon petition by ten percent of the affected customers or 250 affected customers, whichever is less, it shall refer the matter to the Office of Administrative Hearings with instructions for a public hearing as a contested case pursuant to chapter 14, except as otherwise provided in this section. The commission may order that the issues presented by the proposed rate changes be bifurcated into two separate hearings as follows: (1) determination of the telephone company's revenue requirements and (2) determination of the rate design. Upon issuance of both administrative law judge reports, the issues shall again be joined for consideration and final determination by the commission. All prehearing discovery activities of state agency intervenors shall be consolidated and conducted by the Department of Commerce. If the commission does not make a final determination concerning a schedule of rates within ten months after the initial filing date, the schedule shall be deemed to have been approved by the commission; except if a settlement has been submitted to and rejected by the commission, the schedule is deemed to have been approved 12 months after the initial filing.

(b) If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make final determinations of other previously filed cases involving changes in general rates under this section or section 216B.16, the commission may extend the suspension period to the extent necessary to allow itself 20 working days to make the final determination after it has made final determinations in the previously filed cases. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

(c) For the purposes of this section, "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all those petitions.

**Subd. 3. Interim rate; refund.** Notwithstanding any order of suspension of a proposed increase in rates, the commission shall order an interim rate schedule into effect not later than 60 days after the initial filing date. The commission shall order the interim rate schedule ex parte without a public hearing. Notwithstanding the provisions of sections 216.25 and 237.25, no interim rate schedule ordered by the commission pursuant to this subdivision shall be subject to an application for a rehearing or an appeal to a court until the commission has rendered its final determination. Unless the commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test-year cost of capital, rate base, and expenses, except that it shall include: (1) a rate of return on common equity for the company equal to that authorized by the commission in the company's most recent rate proceeding; (2) rate base or expense items the same in nature and kind as those allowed by a currently effective order of the commission in the company's most recent rate proceeding; and (3) no change in the existing rate design, except for products and services offered by nonregulated competitors. In the case of a company which has not been subject to a prior commission determination or has not had a general rate adjustment in the preceding three years, the commission shall base the interim rate schedule on its most recent determination concerning a similar company.

If, at the time of its final determination, the commission finds that the interim rates are in excess of the rates in the final determination, the commission shall order the company to refund the excess amount collected under the interim rate schedule, including interest on it which shall be at the rate of interest determined by the commission. The company shall commence distribution of the refund to its customers within 120 days of the final order, not subject to rehearing or appeal. If, at the time of its final determination, the commission finds that the interim rates are less than the rates in the final determination, the commission shall prescribe a method by which the company will recover the difference in revenues from the date of the final determination to the date the new rate schedules are put into effect.

If the telephone company fails to make refunds within the period of time prescribed by the commission, the commission shall sue therefor and may recover on behalf of all persons entitled to a refund. In addition to the amount of the refund and interest due, the commission shall be entitled to recover reasonable attorney's fees, court costs and estimated cost of administering the distribution of the refund to persons entitled thereto. No suit under this subdivision shall be maintained unless instituted within two years after the end of the period of time prescribed by the commission for repayment of refunds. The commission shall not order an interim rate schedule in a general rate case into effect as provided by this subdivision until at least four months after it has made a final determination concerning any previously filed change of the rate schedule or the change has otherwise become effective under subdivision 2, unless:

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(1) the commission finds that a four-month delay would unreasonably burden the company, its customers, or its shareholders and that an earlier imposition of interim rates is therefore necessary; or

(2) the company files a second general rate case at least 12 months after it has filed a previous general rate case for which the commission has extended the suspension period under subdivision 2.

Subd. 4. **Burden of proof.** The burden of proof to show that the rate change is just and reasonable shall be upon the telephone company seeking the change.

Subd. 5. **Determination after finding rate unacceptable.** If, after the hearing, the commission finds the rates to be unjust or unreasonable or discriminatory, the commission shall determine the rates to be charged or applied by the telephone company for the service in question and shall fix them by order to be served upon the telephone company. The rates shall thereafter be observed until changed, as provided by this chapter. In no event shall the rates exceed the level of rates requested by the telephone company, except that individual rates may be adjusted upward or downward. Rate design changes shall be prospective from the effective date of the new rate schedules approved by the commission.

Subd. 6. **Factors considered, generally.** The commission, in the exercise of its powers under this chapter to determine just and reasonable rates for telephone companies, shall give due consideration to the public need for adequate, efficient, and reasonable service and to the need of the telephone company for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its telephone company property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in the property. In determining the rate base upon which the telephone company is to be allowed to earn a fair rate of return, the commission shall give due consideration to evidence of the cost of the property when first devoted to public use, to prudent acquisition cost to the telephone company, less appropriate depreciation on each, to construction work in progress, to offsets in the nature of capital provided by sources other than the investors, and to other expenses of a capital nature. To the extent that construction work in progress is included in the rate base, the income used in determining the actual return on the telephone company property may include an allowance for funds used during construction. For purposes of determining rate base, the commission shall consider the original cost of telephone company property included in the base and shall make no allowance for its estimated current replacement value.

Subd. 7. **Advertising.** The commission shall not make an allowance for operating expenses incurred by a telephone company for institutional advertising.

Subd. 8. **Charitable contribution.** The commission shall allow as operating expenses only 50 percent of the qualified charitable contributions which the commission deems prudent for the use of any community chest, corporation, trust, fund, association, foundation, or organization, and only as long as the use is exclusively for religious, charitable, public cemetery, scientific, literary, artistic, or educational purposes or for the prevention of cruelty to children or animals. No part of a charitable contribution may inure to the benefit of any private stockholder or individual.

Subd. 9. **Election on regulation; cooperative, municipal, independent.** For the purposes of this section, "telephone company" shall not include a cooperative telephone association organized under the provisions of chapter 308A, an independent telephone company, or a municipal, unless the cooperative telephone association, independent telephone company, or municipal makes the election provided in this subdivision.

A cooperative telephone association may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by the board of directors of the association in accordance with the procedures for amending the articles of incorporation contained in section 308A.135, excluding the filing requirements; or (b) approved by a majority of members or stockholders voting by mail ballot initiated by petition of no fewer than five percent of the members or stockholders of the association. The ballot to be used for the election shall be approved by the board of directors and the department. The department shall mail the ballots to the association's members who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the association shall count the ballots. If a majority of the association's members who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "member or stockholder" shall mean either the member or stockholder of record or the spouse of the member or stockholder unless the association has been notified otherwise in writing.

A municipal may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by resolution of the governing body of the

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municipality; or (b) approved by a majority of the customers of the municipal voting by mail ballot initiated by petition of no fewer than 20 percent of the customers of the municipal. The ballot to be used for the election shall be approved by the governing body of the municipality and the department. The department shall mail the ballots to the municipal's customers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the governing body of the municipality. On this date, representatives of the department and the municipal shall count the ballots. If a majority of the customers of the municipal who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "customer" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the municipal utility has been notified otherwise in writing.

An independent telephone company may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by the board of directors of the company in accordance with the procedures for amending the articles of incorporation contained in sections 302A.133 to 302A.139, excluding the filing requirements; or (b) approved by a majority of subscribers voting by mail ballot initiated by petition of no fewer than five percent of the subscribers of the company. The ballot to be used for the election shall be approved by the board of directors and the department. The department shall mail the ballots to the company's subscribers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the company shall count the ballots. If a majority of the company's subscribers who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section the term "subscriber" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the independent telephone company has been notified otherwise in writing.

Subd. 10. **Intervenor reimbursement.** The commission may order a telephone company to pay all or a portion of a party's intervention costs not to exceed \$20,000 per intervention in any general rate case when the commission finds that the intervenor has materially assisted the commission's deliberation and the intervenor has insufficient financial resources to afford the costs of intervention. No entity which provides telephone services of any kind is eligible for reimbursement of intervention costs under this subdivision.

Subd. 11. **Recovery of expenses of segregating billing charges.** The public utilities commission shall allow each telephone company and independent telephone company subject to the requirements of section 325F.692 to automatically adjust tariffs or rates paid by information service providers to reflect the reasonable cost to the company to comply with section 325F.692.

### **237.076 SETTLEMENT; PROCEDURES.**

Subdivision 1. **Settlement.** In proceedings before the commission, interested parties are encouraged to enter into settlements of their disputes. If a settlement is reached before a contested case hearing has been ordered and the commission rejects the settlement, the commission shall order a contested case hearing if a significant issue has not been resolved to the commission's satisfaction. When a contested case hearing has been ordered under this chapter, the Office of Administrative Hearings, before conducting the hearing, shall convene a settlement conference including all the parties to encourage settlement of issues in the contested case. If a stipulated settlement is not reached before the contested case hearing, the Office of Administrative Hearings may, at its discretion or a party's request, reconvene the settlement conference during the hearing or after its completion. If all parties agree to a stipulated settlement of the case or a part of the case, the settlement must be submitted to the commission.

Subd. 2. **Procedures.** The commission may accept a settlement upon finding that to do so is in the public interest and is supported by substantial evidence. If the commission does not accept a settlement, it may issue an order modifying the settlement, subject to the approval of the parties. A party has ten days after entry of the order, or of an order disposing of a petition for reconsideration, in which to reject the proposed modification. If no party rejects the proposed modification, the commission's order becomes final. If the commission rejects a settlement or if a party rejects the commission's proposed modification of a settlement, the matter must be referred to the administrative law judge assigned to the case for further proceedings.

### **237.082 TELECOMMUNICATION RATE AND SERVICE GOALS.**

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When setting rates, adopting rules, or issuing orders related to telecommunication matters that affect deployment of the infrastructure, the commission may apply the goals of:

- (1) achieving economically efficient investment in:
  - (i) higher speed telecommunication services; and
  - (ii) greater capacity for voice, video, and data transmission; and
- (2) just and reasonable rates.

The department may apply the same goals in its regulation of and recommendations regarding telecommunication services.

#### **237.09 DISCRIMINATION PROHIBITED.**

Subdivision 1. **Generally.** No telephone company, or any agent or officer thereof, shall, directly or indirectly, in any manner, knowingly or willfully, charge, demand, collect, or receive from any person, firm, or corporation, a greater or less compensation for any intrastate service rendered or to be rendered by it than it charges, demands, collects, or receives from any other firm, person, or corporation for a like and contemporaneous intrastate service under similar circumstances.

Subd. 2. **Particular services.** (a) A telephone company that offers or provides a service or services, service elements, features, or functionalities on a separate, stand-alone basis to any customer shall provide that service, service element, feature, or functionality pursuant to tariff to all similarly situated persons, including all telecommunications carriers and competitors. To the extent prohibited by the Federal Communications Commission or Public Utilities Commission, a telephone company shall not give preference or discriminate in providing services, products, or facilities to an affiliate or to its own or an affiliate's retail department that sells to consumers.

(b) For purposes of establishing an appropriate rate or price floor for a rate for a telephone service, a telephone company shall impute, on a service-by-service basis, into the rate or price for that service, the tariffed rate or price for the same services, service elements, or network functions that the company provides to others who use it to provide a service that competes with the telephone service offered by the company. A company is not required to impute a rate or price under this paragraph if it demonstrates to the commission, in an expedited proceeding under section 237.61, that:

- (1) the competitor can obtain substantially equivalent services, service elements, or network functions within the relevant market or geographic area on reasonably comparable terms and conditions through self-provision or from a provider other than the telephone company; or
- (2) application of the imputation requirement otherwise would be inconsistent with the public interest.

#### **237.10 UNIFORM RULES, CLASSIFICATIONS, PRACTICES; FORMS.**

It shall be the duty of the commission to prescribe uniform rules and classifications pertaining to the conduct of intrastate telephone business and a system of accounting to be used by telephone companies in transacting this business, and it shall prescribe and furnish blanks and forms for reports, all of which shall conform as nearly as practicable to the rules, classifications, accounting systems, and reports prescribed by the Federal Communications Commission for the interstate business of like size companies.

The commission shall by correspondence or conference where necessary use its best endeavors toward establishing uniformity in practice in all matters pertaining to regulation of the business of telephone companies between the federal government and state government of this and adjacent states.

#### **237.101 ELECTRONIC BILLING.**

A telephone company may provide a customer's periodic account statement to the customer in electronic format in lieu of paper format if the customer has authorized the electronic format in writing.

#### **237.11 INSPECTING RECORDS AND PROPERTY; REPORTS REQUIRED.**

Every telephone company subject to the provisions of this chapter, wherever organized, shall keep an office in this state, and make such reports to the department as it shall from time to time require. All books, records, and files, whether they relate to competitive or noncompetitive services, and all of its property shall be at all times subject to inspection by the commission and the department. It shall close its accounts and take therefrom a balance sheet on December 31



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of each year, and on or before May 1 following, such balance sheet, together with such other information as the department shall require, verified by an officer of the telephone company, shall be filed with the commission and the department, except that a local exchange carrier or a competitive local exchange carrier, as defined in Minnesota Rules, chapter 7811, is only required to file an annual report that includes the company's name, contact person, annual revenue, and status of its 911 update plan.

In the event that any telephone company shall fail to file its annual report, as provided by this section, the department is authorized to make such an examination of the books, records, and vouchers of the company as is necessary to procure the necessary data for the annual report and cause the same to be prepared. The expense of procuring this data and preparing this report shall be paid by the telephone company failing to report, and the amount paid shall be credited by the commissioner of management and budget to funds appropriated for the expense of the department.

The department is authorized to force collection of such sum by an action at law in the name of the department.

#### **237.115 INFORMATION SUBJECT TO PROTECTIVE ORDER.**

In any meeting of the commission during which information that is subject to a protective order is discussed, the commission shall employ the procedures of section 14.60 to close to all persons who are not authorized to obtain the information under the protective order that portion of the meeting during which the information will be discussed and take other appropriate measures to ensure that the data is not disclosed to persons who are not authorized to obtain the information under the protective order.

#### **237.12 SERVICE CONNECTION BETWEEN TELEPHONE COMPANIES.**

Subdivision 1. **Interconnection.** When public convenience requires the same, every telephone company shall, for a reasonable compensation, permit a physical connection or connections to be made, and telephone service to be furnished between any telephone exchange system operated by it, and the telephone toll line or lines operated by another company, or between its telephone toll line or lines and the telephone exchange system of another telephone company, or between its toll line and the toll line of another company, whenever such physical connection or connections are practicable and will not result in irreparable injury to the telephone system so compelled to be connected. The term "physical connection," as used in this section, means such number of trunk lines or complete wire circuits and connections as may be required to furnish reasonable and adequate service between such telephone lines and exchanges and shall not be deemed to provide for any connection whereby one line or circuit is to be bridged upon another line or circuit. In case of failure of the telephone companies concerned to allow or agree upon such physical connection or connections, or the terms and conditions upon which the same shall be made, application may be made to the commission for an order requiring such connection and fixing the compensation, terms and conditions thereof, and if after investigation and hearing the commission shall find that such physical connections will not result in irreparable injury to such telephone properties, the commission shall by order direct that such connections be made, and prescribe reasonable conditions and compensation therefor and for the joint use thereof, and by whom the expense of making and maintaining such connection or connections shall be paid. When application is made requesting physical connection it shall be presumed that such connection is necessary, and that the public convenience will be promoted thereby, and the burden of overcoming such presumption shall be upon the party resisting such application. The telephone companies so connecting shall give service over the connecting line or lines without preference to or discrimination against any service or telephone company whatever.

Subd. 2. **Discontinuance.** Wherever a physical connection or connections exist between any telephone exchange system operated by a telephone company and the toll line or lines operated by another telephone company or between its toll line or lines and the telephone exchange system of another telephone company, or between its toll line and the toll line of another telephone company, neither of the companies shall cause such connection to be severed or the service between the companies to be discontinued without first obtaining an order from the commission upon an application for permission to discontinue such physical connection. Upon the filing of an application for discontinuance of such a connection, the department shall investigate and ascertain whether public convenience requires the continuance of such physical connection, and if the department so finds, the commission shall fix the compensation, terms and conditions of the continuance of the physical connection and service between the telephone companies.

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Subd. 3. **Compensation.** Telephone companies providing long-distance telephone services shall pay compensation to telephone companies providing local telephone services that includes a fair and reasonable portion of:

- (1) the costs of local exchange facilities used in connection with long-distance telephone services, including facilities connecting a customer to local switching facilities; and
- (2) the common costs of companies providing local telephone services.

Subd. 4. **Price for interconnection or network element.** For telephone companies with more than 50,000 access lines, the prices for interconnection or network elements to be established by the commission in any pending or future proceeding shall be based on a forward-looking economic cost methodology which shall include, but is not limited to, consideration of the following:

- (1) the use of the most efficient telecommunications technology currently available and the least cost network configuration, given the existing location of the incumbent telephone company's wire centers;
- (2) forward-looking depreciation rates;
- (3) a reasonable allocation of forward-looking joint and common costs;
- (4) forward-looking cost of capital; and
- (5) Minnesota tax rates, and where applicable, Minnesota facility placement requirements, Minnesota topography, and Minnesota climate.

### **237.121 PROHIBITED PRACTICES.**

(a) A telephone company or telecommunications carrier may not do any of the following with respect to services regulated by the commission:

- (1) upon request, fail to disclose in a timely and uniform manner information necessary for the design of equipment and services that will meet the specifications for interconnection;
- (2) intentionally impair the speed, quality, or efficiency of services, products, or facilities offered to a consumer under a tariff, contract, or price list;
- (3) fail to provide a service, product, or facility to a consumer other than a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission's rules and orders;
- (4) refuse to provide a service, product, or facility to a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission's rules and orders;
- (5) impose unreasonable or discriminatory restrictions on the resale of its services, provided that:
  - (i) it may require that residential service may not be resold as a different class of service; and
  - (ii) the commission may prohibit resale of services it has approved for provision for not-for-profit entities at rates less than those offered to the general public; or
- (6) provide telephone service to a person acting as a telephone company or telecommunications carrier if the commission has ordered the telephone company or telecommunications carrier to discontinue service to that person.

(b) A telephone company or telecommunications carrier may not violate a provision of section 325F.693, with regard to any of the services provided by the company or carrier.

### **237.14 RATE FOR SERVICE TO OFFICER.**

A telephone company may furnish service free or at reduced rates to its officers, agents, or employees in furtherance of their employment, but it shall charge full schedule rates without discrimination for all other services. Nothing herein shall release any telephone company from carrying out any contract now existing between it and any municipality for the furnishing of any service free or at reduced rates. Any contract for telephone service, at discriminatory rates, other than those with municipalities, shall be terminated by the company as soon as the same becomes terminable by its terms.

### **237.15 INVESTIGATION AND HEARING; AUTHORITY DELEGATED.**

The department shall whenever it deems the same necessary determine the value of all the property of any telephone company devoted to the public use, and in so doing it shall, after notice to the telephone company, hold such public hearing as will give all interested parties a chance to furnish evidence and be heard. For the purpose of this chapter the department is authorized to

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appoint engineers, examiners, experts, clerks, accountants, and other assistants as it may deem necessary at such rates of compensation as it may prescribe.

In the discharge of their duties such appointees shall have every power, of any inquisitorial nature granted in this chapter to the department. The department may conduct any number of investigations contemporaneously through its individual members or appointees, and may delegate to its individual members and employees the taking of all testimony on any investigation or hearing.

### **237.155 CREDIT FOR INCORRECT DIRECTORY ASSISTANCE.**

A local exchange carrier that provides directory assistance to customers for a fee, either directly or by contracting with a third party, must provide for an immediate credit to a customer that informs the directory assistance provider that the provider has given the customer incorrect information for which the provider charged the customer a fee. A local exchange carrier must notify its customers of the right to the immediate credit for incorrect directory assistance. The notice must be in a writing labeled "NOTICE OF RIGHT TO INCORRECT DIRECTORY ASSISTANCE CREDIT." The notice must be given to a new customer within 45 days of commencing service and at least annually thereafter and the notification print must be of sufficient size to be clearly legible.

### **237.16 LOCAL EXCHANGE COMPETITION, RULES.**

Subdivision 1. **New service, certificate of authority.** (a) For the purpose of bringing about fair and reasonable competition for local exchange telephone services, the commission has the exclusive authority, subject to the authority of a local government unit under sections 237.162 and 237.163, to:

(1) authorize any person to construct telephone lines or exchanges or to otherwise furnish local service to subscribers in any municipality of this state, and to prescribe the terms and conditions upon which construction or service delivery may be carried on; and

(2) establish terms and conditions for the entry of telephone service providers so as to protect consumers from monopolistic practices and preserve the state's commitment to universal service.

(b) No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules.

(c) The commission shall make a determination on an application for a certificate within 120 days of the filing of the application.

Subd. 3. **Map.** Every company authorized to provide local telephone service under this section shall file a territorial map. The map must comply with the rules prescribed by the commission.

Subd. 4. **Amended certificate required for expansion.** No company authorized to provide local service shall provide local telephone service in any area for which it has not been certified nor shall any person acquire ownership or control of another telephone company either directly or indirectly, without first obtaining from the commission an amended certificate of authority. The applicant for an amended certificate shall file with the commission notice of the expansion or acquisition, along with a new map under subdivision 3, identifying the territory to be served. Notice of the filing shall be served on any affected municipality and local telephone company certified in that territory. If no objection is filed with the commission by any interested party or raised by the commission within 20 days of the filing, it is considered approved, except if it involves an acquisition governed by section 237.23, in which case no certificate shall be granted until approval is obtained pursuant to that section and subdivision 1. If an objection is filed, the commission shall determine whether to approve the amendment in an expedited proceeding under section 237.61. This section shall not be construed to require a telephone company operating an exchange in Minnesota to secure a certificate for an extension within any territory within which such company has heretofore filed maps or for substitute facilities within such territories, or for extensions into territories contiguous to that already occupied by such company and not receiving similar service from another company if no certificate of territorial authority has been issued to or applied for by any other company.

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Subd. 5. **Revocation and temporary suspension.** Any certificate of authority may, after notice of hearing and a hearing, be revoked or temporarily suspended by the commission, in whole or in part, for: the failure of its holder to furnish reasonably adequate telephone service within the area or areas determined and defined in the certificate of authority; failure to meet the terms and conditions of its certificate; intentional violation of the commission's rules or orders; or intentional violation of any applicable state or federal law relating to the provision of telephone or telecommunications services.

Subd. 6. **Expansion of service area not required.** This section does not require any telephone company providing local service in the state of Minnesota to render telephone service in any portion of any territorial area not included on the telephone company's territorial map.

Subd. 7. **Existing certificate service continued.** This section does not limit the ability of telephone companies possessing certificates of territorial authority on August 1, 1995, including, but not limited to, certificates authorizing resale of local telephone service, to continue to provide telephone service within their designated territories.

Subd. 8. **Rules.** (a) Before August 1, 1997, the commission shall adopt rules applicable to all telephone companies and telecommunications carriers required to obtain or having obtained a certificate for provision of telephone service using any existing federal standards as minimum standards and incorporating any additional standards or requirements necessary to ensure the provision of high-quality telephone services throughout the state. The rules must, at a minimum:

- (1) define procedures for competitive entry and exit;
- (2) require the provisions of equal access and interconnection with the company's network and other features, functions, and services which the commission considers necessary to promote fair and reasonable competition;
- (3) require unbundling of network services and functions to at least the level required by existing federal standards;
- (4) prescribe, if necessary, methods of reciprocal compensation between telephone companies;
- (5) provide for local telephone number portability;
- (6) prescribe appropriate regulatory standards for new local telephone service providers, that facilitate and support the development of competitive services;
- (7) protect against cross-subsidization, unfair competition, and other practices harmful to promoting fair and reasonable competition;
- (8) prescribe methods for the preservation of universal and affordable local telephone services;
- (9) prescribe standards for quality of service;
- (10) provide for the continued provision of local emergency telephone services under chapter 403; and
- (11) protect residential and commercial customers from unauthorized changes in service providers in a competitively neutral manner.

(b) Before January 1, 1998, in a separate rulemaking, the commission shall adopt separate rules regarding the issues described in paragraph (a), clauses (1) to (11), as may be appropriate to provision of competitive local telephone service in areas served by telephone companies with less than 50,000 subscribers originally certified to provide local telephone services before January 1, 1988.

Subd. 9. **Universal service fund.** The commission shall establish and require contributions to a universal service fund, to be supported by all providers of telephone services, whether or not they are telephone companies under section 237.01, including, but not limited to, local telephone companies, independent telephone companies, cooperative telephone companies, municipal telephone companies, telecommunications carriers, radio common carriers, personal communication service providers, and cellular carriers. Services that should be considered for inclusion as universal include, at a minimum, single-party service including access, usage and touch-tone capability; line quality capable of carrying facsimile and data transmissions; equal access; emergency services number capability; statewide telecommunications relay service for the hearing-impaired; and blocking of long-distance toll services. The fund must be administered and distributed in accordance with rules adopted by the commission and designed to preserve the availability of universal service throughout the state. Any state universal service fund must be coordinated with any federal universal service fund and be consistent with section 254(b)(1) to (5) of the federal Telecommunications Act of 1996, Public Law 104-104. The department shall make recommendations to the legislature by January 1, 1996, regarding a plan for contributions to and expenditures from the universal service fund. In particular, the department shall address the following issues:

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(1) what additional services should be included in the basic set of essential telephone services which the state should encourage in its mandate to ensure universal service;

(2) whether and how expenditures from the fund should be used to ensure citizens access to local government and other public access programming; and

(3) whether expenditures from the fund should be used to encourage construction of infrastructure for, and access to, advanced services, especially in high-cost areas of the state, and, if the commission determines the fund should be used for this purpose, a plan to accomplish these goals.

Subd. 10. **Interim authority.** (a) Before adopting the rules required under subdivision 8, the commission shall grant an applicant a certificate to provide a proposed local telephone service when the commission finds that the applicant meets the conditions of subdivision 1. Any applicant for a certificate pursuant to subdivision 1 shall, at the time its application is filed, provide notice of its application to all local telephone companies authorized to provide local exchange service in the geographic area identified in the application. The applicant and telephone companies shall negotiate a temporary arrangement pertaining to interconnection matters for the effective interconnection of local exchange networks, pending the adoption of the rules under subdivision 8. If the applicant and the telephone companies fail to reach agreement within 60 days of filing the application, the commission shall set the terms of the temporary arrangement at the time of the issuance of the certificate.

(b) Any company previously certified to provide local telephone services may request a temporary arrangement for the effective interconnection with the local exchange network of another telephone company in the same territory, pursuant to the time frames and procedures of this subdivision.

(c) In addition, through and until the rules are adopted under subdivision 8, each telephone company serving more than 50,000 access lines in the state shall:

(1) permit interconnection or discontinue interconnection for intrastate services to the same extent and in the same manner and time frame as the Federal Communications Commission requires interconnection or permits discontinuance of interconnection for interstate services; and

(2) unbundle its intrastate services and facilities used for intrastate services to the same extent and in the same manner as the Federal Communications Commission requires unbundling for interstate purposes.

Subd. 11. **Interim authority in area served by small telephone company.** (a) Before adopting the rules required under subdivision 8 for telephone companies with less than 50,000 subscribers, when an applicant requests certification to provide local telephone service in an area served by a telephone company with less than 50,000 subscribers originally certified to provide local telephone service before January 1, 1988, the commission shall grant the application if it finds the applicant meets the requirements of subdivision 1. The commission shall make its determination on the application, including whether to provide a temporary arrangement for the effective interconnection of the local exchange networks, after a hearing under chapter 14 or expedited proceeding under section 237.61, within nine months of the application, and considering any facts unique to that telephone company. In addition, if an application is granted, that telephone company shall:

(1) permit interconnection or discontinue interconnection for intrastate services to the same extent and in the same manner and time frame as the Federal Communications Commission may thereafter require for that small telephone company for interstate purposes; and

(2) unbundle its intrastate services and facilities used for intrastate services to the same extent and in the same manner as the Federal Communications Commission may thereafter require for that telephone company for interstate purposes.

(b) If a telephone company with less than 50,000 subscribers is authorized by the Federal Communications Commission to provide video common carrier services before the rules required under subdivision 8 are adopted, an application under this subdivision for certification to provide local telephone service in an area served by that telephone company shall be determined within 120 days of its filing.

Subd. 12. **Extension of interexchange facility.** In order to promote the development of competitive interexchange services and facilities, any interexchange facility that is owned by a certified telephone company, independent telephone company, telecommunications carrier or an affiliate and that is used to provide service to customers located in areas for which it has been previously certified to provide service may be extended to meet and interconnect with the facility of another telephone company, small telephone company, or telecommunications carrier, whether at a point inside or outside of its territories, without further proceeding, order, or determination of current or future public convenience and necessity, upon mutual consent with the other telephone company, small telephone company, or telecommunications carrier whose facilities will be met

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and interconnected. Written notice of the extension and interconnection must be provided to the Public Utilities Commission and Department of Public Safety within 30 days after completion. The written notice must be served on all local exchange companies certified before January 1, 1988, in all areas where the facilities are located.

Subd. 13. **Application of other law.** Notwithstanding any provisions of sections 237.035 and 237.74 to the contrary, before adopting the rules under subdivision 8, the local services provided by a telecommunications carrier are subject to this chapter in the same manner as those local services of a telephone company regulated under this chapter, except that the telecommunications carrier is not subject to section 237.22 and is not subject to rate-of-return regulation or earnings investigations under section 237.075 or 237.081. Before offering a local telephone service a telecommunications carrier must be certified to provide local service under this section.

### **237.164 UNIVERSAL SERVICE DISCOUNT FOR SCHOOL OR LIBRARY.**

The commission shall establish intrastate service discounts for schools and libraries by order to the extent and within the time frame necessary to enable schools and libraries to begin receiving federally supported discounts at the earliest date permitted by the Federal Communications Commission.

### **237.17 EXTENSION OF LONG-DISTANCE LINE.**

Any telephone company may extend its long-distance lines into or through any city of this state for the furnishing of long-distance service only, subject to the regulation of the governing body of such city relative to the location of the poles and wires and the preservation of the safe and convenient use of such streets and alleys to the public.

### **237.18 SURRENDERING OLD LICENSE; NEW AUTHORITY.**

Any telephone company operating under any existing license, permit, or franchise or which shall, before the taking effect of Laws 1915, chapter 152, acquire any license, permit, or franchise, upon filing with the clerk of the municipality which granted such franchise, a written declaration that it surrenders such license, permit, or franchise, may receive in lieu thereof, an indeterminate permit, as defined in this chapter; and such telephone company shall thereafter hold such permit under all the terms, conditions, and limitations of this chapter. The filing of such declaration shall be deemed a waiver by such telephone company of the right to insist upon the fulfillment by any municipality of any contract theretofore entered into relating to any rate, charge, or service made subject to regulation by this chapter. Upon filing such written declaration by the telephone company, the clerk of the municipality shall file with the commission a certificate showing that fact and the date thereof, and thereupon it shall receive an indeterminate permit from the commission conferring the same rights as if originally granted under this chapter.

### **237.19 MUNICIPAL TELECOMMUNICATIONS SERVICES.**

Any municipality shall have the right to own and operate a telephone exchange within its own borders, subject to the provisions of this chapter. It may construct such plant, or purchase an existing plant by agreement with the owner, or where it cannot agree with the owner on price, it may acquire an existing plant by condemnation, as hereinafter provided, but in no case shall a municipality construct or purchase such a plant or proceed to acquire an existing plant by condemnation until such action by it is authorized by a majority of the electors voting upon the proposition at a general election or a special election called for that purpose, and if the proposal is to construct a new exchange where an exchange already exists, it shall not be authorized to do so unless 65 percent of those voting thereon vote in favor of the undertaking. A municipality that owns and operates a telephone exchange may enter into a joint venture as a partner or shareholder with a telecommunications organization to provide telecommunications services within its service area.

### **237.20 CONDEMNATION: NOTICE, COMPENSATION, APPEAL.**

When a municipality decides in the manner above provided to acquire an existing plant by condemnation, it shall give notice to the commission which shall determine the just compensation which the owner of the plant is entitled to receive from the municipality. Before deciding upon the compensation, the commission shall, at a public meeting which may be adjourned from time

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to time, hear all interested parties on the question involved. The commission shall by order fix the compensation and furnish a copy of its order to the municipality and to the telephone company concerned. An appeal may be taken to the district court of the county in which the plant is situated from that part of the order fixing the compensation to be paid, within 30 days, by either party. The appeal shall be tried the same as other appeals hereunder. If no appeal is taken, the order of the commission shall become final at the end of 30 days.

### **237.21 VALUATION OF TELEPHONE PROPERTY.**

In determining the value of any telephone property for ratemaking purposes, no valuation shall be allowed upon the value of any franchise granted by the state or any municipality where no payment was or is being made to the state or municipality on account thereof. The requirement as to reasonableness of rates shall apply to each exchange unit as well as to telephone plants as a whole. Provided, that in the case of a company operating a telephone system consisting of more than one exchange in the state, reasonableness of rates, as measured by earnings, shall be determined by a reasonable return from the total operations of the system within the state rather than by the return from individual exchanges or services. No telephone rates or charges shall be allowed or approved by the commission under any circumstances, which are inadequate and which are intended to or naturally tend to destroy competition or produce a monopoly in telephone service in the locality affected.

### **237.22 DEPRECIATION; AMORTIZATION.**

(a) For purposes of a proceeding to determine or investigate any wholesale or retail rate, or to set any universal service support level, the commission may fix proper and adequate rates and methods of depreciation and amortization with respect to a telephone company's property.

(b) All telephone companies shall retain data in sufficient detail for the purpose of determining depreciation accruals and reserves by depreciable telephone plant account. Depreciable plant accounts are those specified by the Federal Communications Commission for the class to which a telephone company belongs. All telephone companies shall maintain, and have available for inspection by the commission upon request, adequate accounts and records related to depreciation practices as defined herein.

### **237.23 ACQUIRING PROPERTY OF ANOTHER COMPANY.**

It shall be unlawful for any telephone company, corporation, person, partnership, or association subject to the provisions of this chapter to purchase or acquire the property, capital stock, bonds, securities, or other obligations, or the franchises, rights, privileges, and immunities of any telephone company doing business within the state without first obtaining the consent of the commission thereto; and telephone companies, corporations, persons, partnerships, or associations are hereby given the right with the consent of the commission to purchase and acquire the property, capital stock, bonds, securities, or other obligations together with all franchises, rights, privileges, and immunities owned or enjoyed by said companies. The owner and the proposed purchaser of said property shall both join in the application filed with the commission for the approval of such transfer, and in the case of a corporation desiring to sell all of its property it shall require a vote of a majority of its stockholders to ratify the same. Telephone companies may sell and dispose of any property not used by said telephone companies in the conduct of their business at the time of the sale without the consent of the commission.

Nothing herein shall be deemed to prevent the holding of stock heretofore lawfully acquired or to prevent the acquisition of additional stock by any telephone company owning a majority of the stock of any telephone company.

### **237.231 SALE OF LOCAL EXCHANGE SERVICE.**

Subdivision 1. **Commission approval.** A Class A telephone company may not sell a local exchange service territory without receiving the prior consent of the commission. For the purposes of this section, a Class A telephone company is a telephone company which has annual revenues from regulated telecommunication operations of \$100,000,000 or more, as defined by the Federal Communications Commission in Code of Federal Regulations, title 47, section 32.11, paragraphs (a)(1) and (e).

Subd. 2. **Notice of intended sale.** At least 90 days prior to applying to the commission for consent to a proposed sale or acquisition of a local exchange service, the selling telephone company must provide notice to its customers in that local exchange of its intent to sell and

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identify the affected local exchange, and the name of the proposed buyer. The notice must be on a separate document and included in the company's monthly billings to customers. The commission must approve the form of all notices.

Subd. 3. **Resident poll.** At least 60 days prior to the hearing under subdivision 4, the telephone company proposing the sale of a local exchange service must provide each of its customers with a stamped envelope addressed to the commission and must inform the customer that the customer is encouraged to comment on the quality of service that has been provided in the local exchange service territory by the telephone company over the last 12 months.

Subd. 4. **Public hearing.** At least 30 days prior to the commission's deliberations about a proposed sale or acquisition of a local exchange service territory, the commission must hold a public hearing at a location within the affected local exchange service territory allowing the public an opportunity to be heard and to present any concerns or comments.

Subd. 5. **Requirements for consent.** The commission may not give consent to a sale of a service territory unless, at a minimum, it finds all of the following:

(1) the quality of service provided by the telephone company servicing the local exchange service territory has substantially complied with all applicable quality of service standards adopted by rule by the commission for the previous calendar year;

(2) the proposed buyer is financially responsible and capable of making necessary investments to maintain quality service at levels required by rule; and

(3) the proposed buyer demonstrates that it has an adequate number of properly trained employees to maintain service at required levels.

The commission shall, as a condition of its consent, require a proposed buyer to enter into binding commitments obligating the buyer to maintain minimum levels of investment and staffing needed to meet the commission's quality of service rules. These commitments are in addition to any other conditions that the commission may impose.

### **237.24 TRANSCRIBED COPY OF RECORD, EXPENSE.**

A full and complete record shall be kept by the commission of all proceedings had before it upon any formal investigation or hearing and all testimony received or offered shall be taken down by the stenographer appointed by the commission and a transcribed copy of such record shall be furnished to any party to such investigation upon the payment of the expense of furnishing said transcribed copy.

When an appeal is taken from any order of the commission under the provisions of this chapter, the commission shall forthwith cause a certified transcript of all proceedings had, of all pleadings and files, and all testimony taken or offered before it upon which such order was based, showing particularly what, if any evidence, offered was excluded, to be made and filed with the court administrator of the district court where such appeal is pending.

### **237.25 APPEAL FROM DECISION OF COMMISSION.**

Any party to a proceeding before the commission or the attorney general may make and perfect an appeal from the order in accordance with chapter 14.

If the court finds from an examination of the record that the commission erroneously rejected evidence which should have been admitted, it shall remand the proceedings to the commission with instructions to receive the evidence rejected and any rebutting evidence and make new findings and return them to the court for further review. In such case the commission, after notice to the parties in interest, shall proceed to rehear the matter in controversy, and receive the wrongfully rejected evidence and any rebutting evidence offered and make new findings, as upon the original hearing, and transmit it and the new record, properly certified, to the Court of Appeals, whereupon the matter shall be again considered in the court in the same manner as in an original appeal.

### **237.26 ORDER FINAL AND CONCLUSIVE.**

If no appeal is taken from any order of the commission, as above provided, then in all litigation thereafter arising between the state and any telephone company or between private parties and any telephone company, the order shall be deemed final and conclusive.

### **237.27 ATTORNEY GENERAL TO COMPEL OBEDIENCE.**

When any telephone company fails to comply with any law of the state or any order of the commission after it has become final, or any order or judgment of the district court, the



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Court of Appeals, or the Supreme Court in any cases taken to any of the courts on appeal, after the judgment or order has become final, the attorney general shall apply to the district court in the name of the state in any county in which the plant of the telephone company, or any part of it, is situated, for a mandatory injunction or other appropriate writ to compel obedience to the law, order, or judgment. The district court shall punish any disobedience of its orders in the enforcement proceedings as for contempt of court.

### **237.28 BURDEN OF PROOF.**

In any investigation, action or proceeding arising under, or growing out of, an action initiated by the commission upon its own motion, the burden of proof shall be upon the telephone company to establish the reasonableness of the existing rates.

### **237.295 ASSESSMENT OF REGULATORY EXPENSES.**

Subdivision 1. **Filing fee for new authority.** An application for a new authority must be accompanied by a payment not to exceed \$2,000 as determined by the Public Utilities Commission. This fee will be reviewed annually and adjusted accordingly.

Subd. 2. **Assessment of costs.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1, 5, or 6. The remainder must be assessed by the department to the telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calendar year. The assessment must be paid into the state treasury within 30 days after the bill has been transmitted via mail, personal delivery, or electronic service to the telephone companies. The bill constitutes notice of the assessment and demand of payment. The total amount that may be assessed to the telephone companies under this subdivision may not exceed three-eighths of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the third quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

Subd. 3. **Objection.** Within 30 days after the date of the transmittal of any bill as provided by subdivisions 1, 2, 5, and 6, the parties to the proceeding, against which the bill has been assessed, may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful, or invalid. The commission shall within 60 days issue an order in accordance with its findings. The order is appealable in the same manner as other final orders of the commission.

Subd. 4. **Interest imposed.** The amounts assessed against any telephone company or other party that is not paid after 30 days after the transmittal of a notice advising the telephone company or other party of the amount assessed against it, draw interest at the rate of six percent per annum; and, upon failure to pay the assessment, the attorney general shall proceed by action in the name of the state against the telephone company or other party to collect the amount due, together with interest and the cost of the suit.

Subd. 5. **Administrative hearing costs; appropriation.** Any amounts billed to the commission or the department by the Office of Administrative Hearings for contested case hearings held pursuant to section 237.25 must be assessed by the commissioner or the department against the parties to the proceeding. The assessment must be paid into the state treasury within 30 days after a bill, which constitutes notice of the assessment and demand for payment of it, has been transmitted to the parties. Money received must be credited to a special account and is appropriated to the commissioner or the department for payment to the Office of Administrative Hearings.

Subd. 6. **Extended area service balloting account; appropriation.** The extended area service balloting account is created as a separate account in the special revenue fund in the state treasury. The commission shall render separate bills to telephone companies only for direct balloting costs incurred by the commission. The bill constitutes notice of the assessment and demand of payment. The amount of a bill assessed by the commission under this subdivision must be paid by the telephone company into the state treasury within 30 days from the date of

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assessment. Money received under this subdivision must be credited to the extended area service balloting account and is appropriated to the commission.

### **237.30 TELEPHONE INVESTIGATION FUND; APPROPRIATION.**

The sum of \$25,000 is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to establish and provide a revolving fund to be known as the Minnesota Telephone Investigation Fund for the use of the Department of Commerce and of the attorney general in investigations, valuations, and revaluations under section 237.295. All sums paid by the telephone companies to reimburse the department for its expenses pursuant to section 237.295 shall be credited to the revolving fund and shall be deposited in a separate bank account and not commingled with any other state funds or moneys, but any balance in excess of \$25,000 in the revolving fund at the end of each fiscal year shall be paid into the state treasury and credited to the general fund. The sum of \$25,000 herein appropriated and all subsequent credits to said revolving fund shall be paid upon the warrant of the commissioner of management and budget upon application of the department or of the attorney general to an aggregate amount of not more than one-half of such sums to each of them, which proportion shall be constantly maintained in all credits and withdrawals from the revolving fund.

### **237.33 TOWN TELEPHONE SYSTEM.**

For the purpose of preventing the starting and spreading of forest or prairie fires and extinguishing the same, promoting public welfare, public health, and public safety, and facilitating the work of public improvements, the electors of any organized town of this state shall have power, at their annual town meeting or at any special town meeting called in the manner provided by law for special town meetings, to authorize the town to construct, or otherwise acquire, operate, and maintain a township telephone system, including the necessary poles, wires, telephones and telephone equipment, and by itself or in conjunction with one or more other towns to construct, equip, acquire, operate, and maintain a local telephone exchange, or one or more trunk lines of wires connecting such town or towns with the local exchange, or with a local exchange owned by some other corporation or persons, and to determine by ballot the amount of money to be raised for the purposes aforesaid. No such local exchange as herein provided for shall be constructed or maintained in municipalities where a local exchange is already in operation.

### **237.34 TOWN TELEPHONE LINE OUTSIDE CORPORATE LIMITS.**

For the purpose of carrying out the provisions of section 237.33, any town may, by itself or in conjunction with one or more other towns, construct, maintain, acquire, own, or lease telephone lines, telephone equipment, or a local exchange outside the corporate limits of such town. The authority herein granted to any town to acquire, construct, or maintain, by itself, lines outside of its corporate limits shall be solely for the purpose of connecting telephones inside its corporate limits with a telephone exchange or switching center outside its corporate limits. The department may order any service to be extended across any township line to any person or concern adjacent thereto when, in the judgment of the department, such person or concern is entitled to telephone service and the same cannot be reasonably required of any other telephone company.

### **237.35 TAX LEVY FOR CONSTRUCTION.**

When any town has authorized the construction, acquiring, operation, or maintenance of a telephone system, as set forth in sections 237.33 and 237.34, and determined the amount of money to be raised for that purpose, the town board of supervisors may levy a tax for the amount of money to be raised therefor.

### **237.36 RENTAL, CHARGE, TOLL; TAXATION; NONPAYMENT.**

The electors of such town shall have power at their annual town meeting, or at any special meeting, to determine and, in case the electors fail to do so, the town board of supervisors shall determine, the manner of payment of rentals and charges to be paid per phone for operating a local exchange service; and such charges and all tolls payable by the users of such township system shall, in the first instance, be collected by the town board or under its direction. Any local exchange may, by agreement with any town board of supervisors, collect the long-distance tolls directly from the users. No such town shall be subjected to or liable for any gross earnings or other tax by reason of moneys collected or property owned by it for such township telephone

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system. In case of the failure on the part of any user to pay such charges or tolls in the manner so provided, the town board may institute an action at law to collect such charges or tolls in arrears, and may also discontinue telephone service to such user, until all charges and tolls in arrears, the court costs, if any, taxed and allowed in an action to collect such arrears, and the reasonable cost of disconnecting the telephone from the general service, and reconnecting the same shall have been paid.

### **237.37 BONDS TO CONSTRUCT.**

For the purpose of constructing, acquiring, operating, or maintaining a township telephone system or local exchange, as in sections 237.33 to 237.40 provided, any organized town is hereby authorized to issue and sell its bonds in the same manner, under the same procedure, and within the same limitations as provided by law for the issuance and sale of town road and bridge bonds; and the board of supervisors and their successors are hereby authorized to levy and in due form certify to the auditor of the county in which such town is situated, a tax upon the taxable property of the town to provide for the payment of installments of principal and interest as they mature, in the manner provided in the case of town road and bridge bonds.

### **237.38 LOCAL EXCHANGE PERMITS CONNECTION.**

When public convenience requires the same, every local telephone exchange shall for a reasonable compensation permit a physical connection or connections to be made and telephone service to be furnished between such local telephone exchange system and township telephone system. In case of failure of the local telephone exchange to allow or agree upon such physical connection or connections, or the terms and conditions upon which the same shall be made, application may be made to the department for an order requiring such connection, and fixing the compensation, terms, and conditions thereof; and if after investigation and hearing the department shall find that such physical connections will not result in irreparable injury to such telephone properties, it shall by order direct such connections to be made and prescribe reasonable conditions and compensation therefor and for the joint use thereof, and by whom the expense of making and maintaining such connection or connections shall be paid. When application is made to the department requesting physical connection, it shall be presumed that such connection is necessary and that the public convenience will be promoted thereby, and the burden of overcoming such presumption shall be upon the party resisting such application.

### **237.39 ACQUIRING OR SELLING TELEPHONE SYSTEM.**

When, under the provisions of sections 237.33 to 237.40, a township telephone system is established in any township in which any of the inhabitants of the town are already provided with telephone service furnished by any other telephone company or person, the town shall, when so requested by the telephone company or person, acquire from the telephone company all telephone equipment used by the telephone company or person in furnishing telephone service to the inhabitants of the town exclusively. For the purpose of determining the purchase price of the equipment, application shall be made to the department which shall determine the just compensation which the owner of the telephone equipment is entitled to receive for it from the town. Before deciding upon the compensation, the department shall, at a public meeting, which may be adjourned from time to time, hear all interested persons of the question involved. The department shall by order fix the compensation and furnish a copy of its order to the town, and to the telephone company or person concerned. An appeal may be taken to the district court of the county in which the town is situated from that part of the order fixing the compensation to be paid, within 30 days, by either party. The appeal shall be tried in the same manner as other appeals hereunder. If no appeal is taken, the order of the department shall become final at the end of 30 days.

When, under the provisions of sections 237.33 to 237.40 a township telephone system has been established in any town, and it has been determined by the board of supervisors of the town to be for the best interest of public service and all persons concerned, to sell and transfer the township telephone system to any telephone company or person giving service organized for that purpose and qualified to purchase the system and operate it, the board of supervisors may sell, transfer, and convey the township telephone system upon such reasonable price and terms as it may determine; provided, that there shall be presented to the board of supervisors by a petition signed by at least 25 percent of the landowners of the town asking for the sale. If the sale and agreed sale price are approved at an annual or special town meeting, it being stated in

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the notice of the annual and special meeting that the proposition will be considered at it, by 66 percent of the legal voters attending the meeting.

If any township telephone lines are sold under the provisions of sections 237.33 to 237.40, and the town has previously issued bonds for their construction, and any part of the bonds are then outstanding and unpaid, the entire consideration received from the sale, or such part as may be necessary, shall be held and applied only for the payment and retirement of the bonds.

### **237.40 MANAGEMENT.**

The board of supervisors of any such town is hereby vested with all necessary authority to manage, maintain, and operate any township telephone system constructed under the provisions of sections 237.33 to 237.40; and, to that end, may, among other things, contract for the connection of such town lines with exchanges owned by others for switching, lease the system for a reasonable compensation, local exchange and toll connections, hire and discharge such employees as may be necessary to operate and maintain such township system, establish rules and regulations; and, subject to the approval of the department, establish and from time to time, change rates and charges covering the service furnished the users.

### **237.411 REDUCED RATE REGULATION FOR CERTAIN BUSINESS CUSTOMERS.**

Subdivision 1. **Business customer; defined.** For the purpose of this section, "business customer" means a customer subscribing to four or more business lines.

Subd. 2. **Competitive area; defined.** A "competitive area" is an exchange located in Minnesota.

Subd. 3. **Reduced rate regulation.** The rates, prices, tariffs, or charges to a business customer in a competitive area by a telephone company or a telecommunications carrier offering local service are only subject to sections 237.07, subdivision 1; 237.66; and 237.663, and are not subject to any rules imposing rate or price restrictions beyond those sections or to other order or investigation of local rates under section 237.081. A telephone company or telecommunications carrier subject to this subdivision is not required to file specific price information. However, upon request of the department, the commission, or the Office of Attorney General, a telephone company or telecommunications carrier must demonstrate that its pricing complies with subdivision 4.

Subd. 4. **Protection from anticompetitive pricing.** This subdivision applies to prices governed by subdivision 3. A telephone company must not price its local telephone services, whether offered singly or as part of a bundle of services, below the total service long-run incremental cost of providing the service or services.

Subd. 5. **Enforcement.** (a) The powers and duties granted to the commission by section 237.081 apply to violations or suspected violations of this section. A person aggrieved by a violation of this section may file a complaint as provided in section 237.081, which shall be treated as any other complaint filed under that section. The commissioner of commerce may investigate violations or alleged violations of this section.

(b) Section 237.461 applies to violations of this section.

### **237.414 EXPANDED CALLING AREAS; TRANSPORT FACILITIES; TERMINATIONS.**

Subdivision 1. **Expanded calling areas.** (a) In addition to any existing authority applicable to telephone companies, a telephone company may expand the area to which it can provide calling to its customers upon filing with the commission any agreements between the telephone company and other telephone companies and telecommunications carriers entered into under subdivision 3. Calling to these expanded areas must be optional to customers and must be in addition to the customers' existing local service and any extended area service. Subject to sections 237.06 and 237.09, the telephone company may determine the quantity of expanded calling to provide, the prices for that calling, and whether to offer calling alone or in combination with one or more other telephone or unregulated services.

(b) Prices for expanded calling service or for bundles of services that include expanded calling must exceed the variable cost of the expanded calling service or bundles of services, determined on an aggregate basis. A telephone company is not required to file cost information before implementing its prices and is not required to file cost information except on request of the department, Office of the Attorney General, or commission. Customers must be notified of local service options and prices, including options that do not include expanded calling, as required

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under section 237.66. The telephone company shall clearly identify the distinction between the expanded calling area and the basic local calling area to customers. The telephone company is not required to offer unlimited flat-rate calling to these expanded calling areas. The telephone company shall file tariffs setting forth the expanded calling area along with the applicable prices and quantities of calling.

(c) A rate increase or a substantial change in terms and conditions of the expanded calling service may be effective 30 days after filing with the commission and 30 days after providing written notice to affected customers. Rate decreases may be effective immediately upon filing. Minor changes to terms and conditions may be effective immediately upon filing and upon notice to customers. This section does not apply to extended area service or to calling areas previously or hereafter established by order of the commission. This section does not limit the existing rights and obligations of telephone companies and telecommunications carriers to provide local calling, including the obligation to offer unlimited flat rate calling in the basic local calling area or expanded calling area.

Subd. 2. **Obtaining transport, switching facilities.** A telephone company may construct, purchase, lease, or rent transport and switching facilities between its existing local area and the expanded calling area that are needed to provide the expanded calling. If the telephone company is unable to reach agreement with other telephone companies or telecommunications carriers, the company or carrier may petition the commission under section 237.12 to resolve issues regarding prices, terms, and conditions for use of any transport facilities that are subject to the jurisdiction of the commission.

Subd. 3. **Termination of expanded calling traffic.** (a) A telephone company providing an expanded calling area under this section may enter into an agreement to terminate calls with telephone companies and telecommunications carriers providing service within the expanded calling area. Compensation to the telephone company or telecommunications carrier to terminate expanded calling into such areas must be the intrastate access charges of the telephone company or telecommunications carrier terminating the call or other rates agreed upon by the companies.

(b) Two telephone companies that provide expanded calling between their respective areas may also enter into "bill and keep" arrangements for exchange of the expanded calling area traffic.

(c) The telephone company shall file with the commission any agreements for termination of calling by telephone companies and telecommunications carriers providing service within the expanded calling area. The prices, terms, and conditions contained in the agreements required to be filed shall be publicly disclosed in their entirety, and other terminating carriers may elect to adopt those prices, terms, and conditions in whole or in part for technically similar services provided in the exchanges included in the agreement.

Subd. 4. **Amending or terminating expanded calling service.** Except for calling areas that result from a prior or subsequent order of the commission, a telephone company may amend or terminate the expanded calling area service upon 30 days' written notice to customers, the commission, and other telephone companies and telecommunications carriers providing local service in the expanded area. The notice to customers of an amendment to the expanded calling area or termination of an expanded calling area must be sent separately from other mailings and clearly explain how the expanded calling area is being changed. The notice to customers of an amendment must also clearly identify that calls to areas outside of the expanded calling area will be long-distance calls billed at the applicable rate of the customer's long-distance carrier. The notice to customers of a termination must clearly identify that calls to the terminated expanded calling area will become long-distance calls billed at the applicable rate of the customer's long-distance carrier.

### **237.435 ANNUAL UNIVERSAL SERVICE FUNDING CERTIFICATION.**

In determining whether to provide the annual certification of any eligible telecommunications carrier for continued receipt of federal universal service funding, the commission shall apply the same standards and criteria to all eligible telecommunications carriers.

### **237.44 TELEGRAPH LINE, LIABILITY.**

If any person or corporation owning or operating a telegraph line wholly or partly within the state shall fail to transmit any message within a reasonable time, or to exercise due diligence to that end, after its reception, or shall fail to deliver any message to the party to whom it is addressed within a reasonable time after its arrival at the place of destination, the person or corporation shall be liable in a civil action at the suit of the party injured for all damages sustained

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by reason of such neglect or omission. The company delivering the message shall state plainly thereon the exact time when it was received at the original point for transmission.

### **237.45 TELEPHONE AND TELEGRAPH LINES CONSTRUCTED.**

Natural persons, copartnerships, and associations may construct, maintain, and operate telephone and telegraph lines, and shall have and possess the same rights, powers, and privileges with reference thereto as corporations formed for such purpose.

### **237.46 GROSS MISDEMEANOR VIOLATION.**

Any telephone company and, if it be a corporation, the officers thereof, violating any provisions of sections 237.01 to 237.27, shall be guilty of a gross misdemeanor.

### **237.461 ENFORCEMENT.**

Subdivision 1. **Actions.** This chapter and rules and orders of the commission adopted under this chapter may be enforced by any one or combination of: criminal prosecution, action to recover civil penalties, injunction, action to compel performance, and other appropriate action.

Subd. 2. **Civil penalty.** A person who knowingly and intentionally violates a provision of this chapter or rule or order of the commission adopted under this chapter shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least \$100 and not more than \$5,000 for each day of each violation.

Subd. 4. **Civil penalty proceeds deposited in treasury.** The civil penalties provided for in this section may be recovered by a civil action brought by the attorney general in the name of the state. Amounts recovered under this section must be paid into the state treasury.

### **237.47 ALARM TRANSMISSION TELEPHONE DEVICE; RULES.**

Subdivision 1. **Permission required.** Any person desiring to install or use any automatic, electrical, or mechanical device or attachment to any telephone that reproduces any taped or prerecorded message to report any police, fire, or other emergency to any official emergency reporting telephone number shall obtain permission, in writing, from the sheriff of the county in which located or the police chief or fire chief of the municipality into whose emergency telephone number the attachment or device is connected.

Subd. 2. **Conditions for connection.** The sheriff, police chief, or fire chief may determine the conditions, if any, under which the device or attachment may be connected, provided such conditions are reasonable in accordance with local conditions and further provided that the device or attachment complies with the rules of the Minnesota Public Utilities Commission.

Subd. 3. **Removal.** Whenever the sheriff, police chief, or fire chief has knowledge of the use of any such attachment or device not operated or maintained in accordance with the provisions of this section, that official may order its removal.

Subd. 4. **Penalty.** Violation of any of the provisions of this section shall constitute a misdemeanor.

### **237.57 DEFINITIONS.**

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them in this section.

Subd. 2. **Competitive service.** "Competitive service" means a service that has been determined to be subject to effective competition or emerging competition.

Subd. 3. **Effective competition.** "Effective competition" exists when the criteria of section 237.59, subdivision 5, have been satisfied for a service.

Subd. 4. **Emerging competition.** A service will be regulated under "emerging competition" provisions when the criteria of section 237.59, subdivision 5, have not been satisfied, but there is a trend toward effective competition, or if it is a new service offered for the first time after August 1, 1994, that is not integrally related to the provision of adequate telephone service or access to the telephone network or to the privacy, health, or safety of the company's customers, whether or not it meets the criteria of section 237.59, subdivision 5.

Subd. 5. **Local access and transport area.** "Local access and transport area (LATA)" means a geographical area designated by the Modification of Final Judgment in U.S. v. Western Electric Co., Inc., 552 F. Supp. 131 (D.D.C. 1982).

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Subd. 6. **Noncompetitive service.** "Noncompetitive service" means a service that has not been classified as competitive by the commission.

### **237.59 CLASSIFICATION OF COMPETITIVE SERVICE; HEARING.**

Subdivision 1. **Emerging competitive service.** (a) The following services provided by the telephone company are subject to emerging competition unless and until reclassified as noncompetitive or subject to effective competition under this section:

- (1) apartment door answering services;
- (2) automatic call distribution;
- (3) billing and collection services;
- (4) call waiting, call forwarding, and three-way calling services for businesses with three or more lines;
- (5) central office-based pricing packages providing switched business access lines which substitute for private branch exchange systems which may or may not share intelligence with customer premises equipment;
- (6) command link-type services for network reconfiguring to rearrange cross-connections between channel services;
- (7) custom network services and special assemblies;
- (8) Digicom switchnet services for full duplex, synchronous, information transport;
- (9) direct customer access services for telephone number information;
- (10) teleconferencing services;
- (11) inter-LATA and intra-LATA message toll service;
- (12) inter-LATA and intra-LATA private line services;
- (13) inter-LATA and intra-LATA wide area telephone service;
- (14) mobile radio services;
- (15) operator services, excluding local operator services;
- (16) public pay telephone services, excluding charges for access to the central office;
- (17) special construction of facilities;
- (18) systems for automatic dialing; and
- (19) versanet-type service access line involving continuous monitoring and transmission of data from customer's premises to the central office.

(b) A service classified as subject to emerging competition before June 1, 1994, retains that classification unless and until it is reclassified pursuant to subdivision 3 or 10.

Subd. 1a. **CLASS service.** Notwithstanding the terms of subdivision 1, paragraph (b), CLASS services may be classified as competitive services only when so classified according to subdivision 3 or 10.

Subd. 2. **Petition.** (a) A telephone company, or the commission on its own motion, may petition to have a service of that telephone company classified as subject to effective competition or emerging competition. The petition must be served on the commission, the department, the Office of the Attorney General, and any other person designated by the commission. The petition must contain at least:

- (1) a list of the known alternative providers of the service available to the company's customers; and
- (2) a description of affiliate relationships with any other provider of the service in the company's market.

(b) At the time the company first offers a service, it shall also file a petition with the commission for a determination as to how the service should be classified. In the event that no interested party or the commission objects to the company's proposed classification within 20 days of the filing of the petition, the company's proposed classification of the service is deemed approved. If an objection is filed, the commission shall determine the appropriate classification after a hearing conducted pursuant to section 237.61. In either event, the company may offer the new service to its customers ten days after the company files the price list and incremental cost study as provided in section 237.60, subdivision 2, paragraph (f).

(c) A new service may be classified as subject to effective competition or emerging competition pursuant to the criteria set forth in subdivision 5. A new service must be regulated under the emerging competition provisions if it is not integrally related to the provision of adequate local service or access to the telephone network or to the privacy, health, or safety of the company's customers, whether or not it meets the criteria set forth in subdivision 5.

Subd. 3. **Expedited proceeding.** An interested party wishing to contest the change of classification of a service must file an objection with the commission within 20 days after the filing of the petition. If no party files an objection, the service must be reclassified in accordance

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with the petition. If a petition is contested, a telephone company that is the subject of a petition under subdivision 2 may request that the commission determine the classification of the service through an expedited proceeding under section 237.61 or a contested case hearing. If an expedited proceeding is requested, the commission must provide interested persons an opportunity to comment on the appropriateness of the process and the merits of the petition.

When an expedited proceeding is requested, the commission shall make a final determination within 60 days of the date on which all required information required under subdivision 2 is filed, unless during the 60 days the commission finds that a material issue of fact is in dispute, in which case it shall order that a contested case hearing be conducted to evaluate the petition.

**Subd. 4. Contested case hearing.** If a contested case hearing is held under this section, the commission shall make a final determination on the petition within eight months from the date the petitioning party requests a contested case hearing or from the date the commission orders a contested case hearing under subdivision 3. When a contested case hearing is requested in the petition or when the commission acts on its own motion, this deadline may be extended for no more than 60 days by agreement of all parties or by order of the commission if the commission finds that the case cannot be completed within the required time and that without an extension there is substantial probability that the public interest will be harmed.

**Subd. 5. Criteria.** (a) If a proposed classification is objected to pursuant to subdivision 2, paragraph (b), on the basis that the service does not meet the criteria of this subdivision, the commission shall consider, in determining whether a service is subject to either effective competition or emerging competition from available alternative service providers, the following factors:

(1) the number and sizes of alternative providers of service and affiliation to other providers;

(2) the extent to which services are available from alternative providers in the relevant market;

(3) the ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions of service;

(4) the market share, the ability of the market to hold prices close to cost, and other economic measures of market power; and

(5) the necessity of the service to the well-being of the customer.

(b) In order for the commission to find a service subject to effective competition alternative services must be available to over 50 percent of the company's customers for that service.

(c) In order for the commission to find a service subject to emerging competition alternative services must be available to over 20 percent of the company's customers for that service.

**Subd. 6. Burden of proof.** The classification of a service may not be changed so as to result in lessened regulation unless it is demonstrated by a preponderance of the evidence that the criteria of subdivision 5 have been met.

**Subd. 8. Interim relief.** A telephone company that has a petition pending before the commission under this section to declare a service competitive may decrease its price for that service without notice while the commission considers the petition. A company must provide an incremental cost study if requested by the commission. The commission shall suspend a company's right under this subdivision to decrease rates if, after an expedited hearing conducted under section 237.61, the commission finds that the service is being priced below cost, or that the company has within the previous 12 months charged customers interim rates under this subdivision for the same service, and that service was determined by the commission to be noncompetitive.

**Subd. 9. Reporting requirements; exception.** A telephone company that offers only competitive services is not subject to the accounting and reporting requirements of this chapter unless otherwise ordered by the commission for good cause. A telephone company that offers both competitive and noncompetitive services is not subject to the reporting requirements with regard to its effective competition services unless otherwise ordered by the commission for good cause.

**Subd. 10. Regulation reinstated.** (a) The commission, on its own motion or upon complaint, shall reclassify a service as noncompetitive or as subject to emerging competition and reinstate, in whole or in part, rate regulation of the service if, after notice and hearing, the commission finds either:

(1) that the competitive market for that service, on review of the criteria found in subdivision 5, has failed so that rate regulation of that service is necessary to protect the interest of consumers, that it has considered the alternatives to rate regulation, and that the benefits of rate regulation outweigh the burdens of rate regulation; or

(2) that unreasonable discrimination has occurred between different areas of the state.



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(b) In any proceeding to reclassify a service the person initiating the complaint has the burden of proving that the existing classification is inappropriate, except the telephone company providing the service has the burden of proving that the classification is appropriate when the proceeding is commenced by the commission on its own motion or when the complainant is the department or the attorney general.

### **237.60 DISCRIMINATORY PRACTICES; SERVICE COSTS.**

Subd. 3. **Discrimination.** No telephone company shall offer telecommunications service within the state upon terms or rates that are unreasonably discriminatory. No telephone company shall unreasonably limit its service offerings to particular geographic areas unless facilities necessary for the service are not available and cannot be made available at reasonable costs. The rates of a telephone company must be the same in all geographic locations of the state unless for good cause the commission approves different rates. A company that offers long-distance services shall charge uniform rates and charges on all long-distance routes and in all geographic areas in the state where it offers the services. However, a company may offer or provide volume discounts in connection with intrastate long-distance services and may pass through any state, municipal, or local taxes in the specific geographic areas from which the taxes originate. Nothing in this subdivision authorizes a telephone company to provide service outside of its authorized service area except as provided in section 237.16.

Subd. 4. **Cost of service.** Prices or rates charged for competitive services must cover the incremental costs of providing the service. If a telephone company provides both local service and long-distance services, that company shall, in determining the cost of the long-distance service, include at least the same level of contribution to common and joint costs as is contained in the access charges to other telephone companies. The company may do so on an aggregate basis, instead of on a time or mileage band basis.

### **237.61 EXPEDITED PROCEEDING.**

Notwithstanding chapter 14, the commission may conduct an expedited proceeding when authorized under this chapter. In an expedited proceeding, the commission shall give prior notice to interested persons and provide them with an opportunity to present statements of fact and argument and to reply, either orally or in writing or both. In an expedited proceeding, the pleadings must be verified, and oral statements of fact must be made under oath or affirmation. The commission shall make a decision in an expedited proceeding based on the record.

### **237.626 PROMOTION ACTIVITIES.**

Subdivision 1. **Promotions.** A telephone company or telecommunications carrier may promote the use of its services by offering a waiver of part or all of a recurring or a nonrecurring charge, a redemption coupon, or a premium with the purchase of a service. Section 237.09 does not apply to promotions under this section, but the customer group to which the promotion is available must be based on reasonable distinctions among customers. The service being promoted must have a price that is above the incremental cost of the service, including amortized cost of the promotion. A promotion may take effect the day after the notice is filed with the commission. The notice must identify customers to whom the promotion is available.

Subd. 2. **Bundled service.** (a) A telephone company or telecommunications carrier may offer telecommunications services subject to the regulatory jurisdiction of the commission as part of a package of services that may include goods and services other than those subject to the commission's regulatory jurisdiction. Subject to the requirements of this chapter and the associated rules and orders of the commission applicable to those regulated services, a telephone company may establish the prices, terms, and conditions of a package of services, except that:

(1) each telecommunications service subject to the regulatory jurisdiction of the commission must be available to customers on a stand-alone basis; and

(2) at the time the packaged offering is introduced or at the time the packaged price is subsequently changed, the packaged rate or price may not exceed the sum of the unpackaged rates or prices for the individual service elements or services.

(b) Nothing in this subdivision is intended to extend or diminish the regulatory authority of the commission or the department.

Subd. 3. **Promotions available for resale.** Any promotional offering lasting more than 90 days and filed with the commission under subdivision 1 must be available to qualifying carriers for resale. A qualifying carrier must hold a certificate of authority from the commission and must

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have an approved interconnection agreement with the company offering the promotion, the terms of which include language governing the resale of services.

### **237.64 REGISTRATION; BOND.**

Subdivision 1. **Registration.** A person, firm, or corporation seeking to become a telephone company, as defined by section 237.01, subdivision 7, and not required to be certified under section 237.16, shall register with the department and the commission 90 days before beginning operation in the state. The commission may review the proposed rates and services and the financial conditions of the telephone company and may, under section 237.081, investigate any other matter it considers appropriate to protect the public interest. A telephone company that has been authorized by the commission to provide telephone services in this state prior to August 1, 1987, is not required to register under this subdivision. A person, firm, or corporation seeking to offer a noncompetitive service to the public must obtain authority from the commission under section 237.16.

Subd. 2. **Bond.** Telephone companies that have registered under subdivision 1 shall maintain a bond if the company requires advance payments or deposits from its customers, unless waived by the commission. The bond must be issued by a surety company admitted to do business in this state in the principal sum of all deposits and advance payments to be held by the company. The department shall determine the amount of the bond and may require the company to supply information to determine the appropriate amount of the bond. The bond must be in favor of the state for the benefit of any customer who suffers the loss of a deposit or advance payment due to insolvency, cessation of business, or failure to return any unused portion of the deposit or advance payment. The bond must be filed with the department.

### **237.66 DISCLOSURE OF LOCAL SERVICE OPTIONS.**

Subdivision 1. **Notice to local residential customers.** A telephone company, when a residential customer initially requests service or requests a change of service, and annually in the form of a bill insert, shall advise each residential customer of the price of all service options available to that customer. The requirement of an annual notice through a bill insert does not apply to long-distance service.

Subd. 1a. **Notice to customer; right to require prior authorization.** Each residential and commercial telecommunications carrier customer may elect to require that the telephone company serving the customer receive authorization from the customer before a request to serve that customer from a different intrastate telecommunications carrier than the carrier currently serving the customer is processed.

Subd. 1c. **Timing of notice; new customer.** For new installations, a telephone company shall notify a residential or commercial customer of the right described in subdivision 1a when the customer initially requests intraexchange service. Any customer notification of the rights set forth in this section shall be provided utilizing uniform, competitively neutral language and the form, content, and style of the authorization shall be consistent with federal law and regulation and shall use language provided and approved by the public utilities commission.

Subd. 1d. **Change of election.** A customer may change the election under subdivision 1a at any time by notifying the telephone company of that decision. No separate charge may be imposed on the customer for electing to exercise the right described in subdivision 1a or to change that election, but a telephone company may recover in rates the reasonable costs of administering the election.

Subd. 2. **Filing; exemptions.** Copies of both the written notices and information provided to customer service representatives concerning the disclosure required under subdivision 1 must be filed once every 12 months with the commission and the department. Independent telephone companies, municipalities, and cooperative telephone associations are exempt from the requirements of this subdivision unless otherwise ordered by the commission.

Subd. 2a. **Call blocking.** A telephone company, when a residential customer initially requests service, shall advise each residential customer of the availability of all blocking options including 900 number blocking and international long-distance blocking.

Subd. 3. **Enforcement.** If, after an expedited procedure conducted under section 237.61, the commission finds that a telephone company is failing to provide disclosure as required under subdivision 1, or the notification required under subdivision 1c, it shall order the company to take corrective action as necessary.

### **237.661 ANTISLAMMING.**

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Subdivision 1. **Antislamming duties of local telephone company.** If a customer has elected to exercise the right described in section 237.66, subdivision 1a, the telephone company serving the customer shall not process a request to serve the customer by another telecommunications carrier without prior authorization from the customer. If a customer has not elected to exercise the right described in that subdivision, the company may process a request to serve the customer by another telecommunications carrier.

Subd. 2. **Antislamming duties of soliciting carrier.** (a) A telecommunications carrier may request that the telephone company serving a customer process a change in that customer's long-distance provider, if the customer has authorized the change either orally or in writing signed by the customer. Prior to requesting a change in a customer's long-distance service provider, the carrier must confirm:

- (1) the customer's identity with information unique to the customer, unless the customer refused to provide identifying information, then that fact should be noted;
  - (2) that the customer has been informed of the offering made by the carrier;
  - (3) that the customer understands that the customer is being requested to change telecommunication carriers;
  - (4) that the customer has the authority to authorize the change; and
  - (5) that the customer agrees to the change.
- (b) After requesting the change in long-distance service provider, the carrier must:
- (1) notify the customer in writing that the request has been processed; and
  - (2) be able to produce, upon complaint by the customer, evidence that the carrier verified the authorization by the customer to change the customer's long-distance service provider. If the carrier used a negative checkoff verification procedure as defined in subdivision 4, paragraph (c), the evidence must include a tape recording of the initial oral authorization.

Subd. 3. **Penalty for slamming.** If the carrier is not able to present, upon complaint by the customer, evidence that complies with subdivision 2, paragraph (b), clause (2), the change to the service of the carrier is deemed to be unauthorized from the date the carrier requested the change. In that event, the carrier shall:

- (1) bear all costs of immediately returning the customer to the service of the customer's original service provider; and
- (2) bear all costs of serving that customer during the period of unauthorized service.

Subd. 4. **Verification procedures; evidence of authorization.** (a) Customer authorization for a change in the customer's long-distance service provider may be verified using a verification procedure that complies with federal law or regulation. Except as provided in paragraph (b), the requirement that the carrier be able to produce evidence of customer authorization is satisfied if the carrier uses a federally authorized verification procedure.

(b) If federal law or regulation authorizes a carrier to use a negative checkoff verification procedure, and the carrier does so, the carrier must be able to produce a tape recording of the initial oral authorization by the customer to change long-distance service providers as evidence of the authorization. The initial oral authorization must include confirmation of the items listed in subdivision 2, paragraph (a).

(c) "Negative checkoff" means a verification procedure that consists of:

- (1) an initial oral authorization by the customer to change long-distance service providers; and
- (2) a mailing to the customer by the soliciting telecommunications carrier regarding the change in service providers that informs the customer that if the customer fails to cancel the change in service providers, the change will be deemed authorized and verified.

### **237.662 NOTICE AND DISCLOSURE REQUIREMENTS OF LONG-DISTANCE PROVIDERS.**

Subdivision 1. **Information required.** When contacted by a customer regarding the purchase of long-distance telecommunications services, or when soliciting customers via mail or telephone, a provider of long-distance services shall provide the customer with the following information, if the service is being offered to the customer, about the service offering either orally or in writing:

- (1) the price or range of prices of interstate message toll service accessed by dialing "1+" or "10-xxx", including any difference in prices for evening, night, or weekend calls;
- (2) the price or range of prices of intrastate interLATA message toll service accessed by dialing "1+" or "10-xxx", including any difference in prices for evening, night, or weekend calls;
- (3) the price or range of prices of intrastate intraLATA message toll service accessed by dialing "1+" or "10-xxx", including any difference in prices for evening, night, or weekend;

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(4) any minimum volume requirements, fixed flat fees, service charges, surcharges, termination charges or other non-service-specific charges, including the fact that the provider of local service may charge a onetime fee for changing carriers; and

(5) any special promotional rate or promotional offering related to the services or prices described in clauses (1) to (4) above, including any limitations or restrictions on the promotional rates or offerings.

Subd. 2. **Price, terms, and restrictions in writing.** If a customer agrees to purchase telecommunications services from the provider of long-distance services on a presubscription basis, the provider shall send the customer written information regarding services subscribed to, containing:

(1) the information regarding prices and charges described in subdivision 1, clauses (1) to (5);

(2) the price for calls placed with a calling card issued to the customer by the provider and any surcharge for placing calls with a calling card;

(3) the price for calls charged to the customer when a personal "1-800" number for long-distance services issued to the customer by the provider is used; and

(4) the price of directory assistance calls.

This written information must be sent to the customer within seven business days from the date of the verification of the customer's authorization, unless federal law or regulation requires notice to be sent by an earlier date.

Subd. 3. **Filed tariff no defense.** That a telecommunications carrier has intrastate tariffs or price lists for the services listed in subdivisions 1 and 2 on file with the Public Utilities Commission or Department of Commerce is not a defense to any action brought for failure to disclose intrastate prices for which disclosure is required under this section.

### **237.663 LOADING.**

(a) Except as provided in paragraph (b) or (c), a telephone company or telecommunications carrier providing local service shall not charge a telephone service subscriber, as defined in section 325F.692, for a telephone or telecommunications service that is not required by the commission to be offered and for which the subscriber did not explicitly contract.

(b) If a charge is assessed on a per-use basis for a service described in paragraph (a), the charge must be applied as a credit to the subscriber's next monthly bill, if the subscriber notifies the telephone company or telecommunications carrier that the subscriber did not utilize the service or did not authorize the utilization of the service.

(c) A telephone company or telecommunications carrier that receives a notification from a telephone service subscriber under paragraph (b) shall inform the subscriber of the ability to block the services from future use by the subscriber, and shall block the services from future use by the subscriber, if the subscriber so requests. If a subscriber requests that the carrier or company not block the service or later requests to have the block lifted, the subscriber shall be responsible for charges caused by the future utilization of that service. The carrier or company may not charge a recurring fee for blocking the service.

### **237.665 PROHIBITION AGAINST BILLING FOR UNAUTHORIZED CHARGES.**

(a) A telephone company or telecommunications carrier providing local service shall not include on a customer's bill a charge for goods or services on behalf of a third-party service provider unless the third-party service provider has obtained the customer's prior express authorization to include such charges on the customer's bill.

(b) If a customer of a telephone company or telecommunications carrier notifies the telephone company or telecommunications carrier that an unauthorized charge from a third-party service provider has been included on the customer's bill, then the telephone company or telecommunications carrier shall remove the unauthorized charge. The telephone company or telecommunications carrier shall credit to the customer any amounts paid for the unauthorized charges that were billed by the telephone company or telecommunications carrier during the six months prior to the customer's complaint, unless the third-party service provider can produce within 14 calendar days of the complaint evidence to the customer and the telephone company or the telecommunications carrier of prior express authorization by the customer.

(c) A third-party service provider meets the prior express authorization requirements of this section only if it obtains or receives a customer's written authorization in the form of a letter of agency, a customer's oral authorization verified by an independent third party, or a copy of an e-mail notice of verification as described in clause (3).

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(1) If the third-party service provider obtains the customer's written authorization in the form of a letter of agency, it must be a separate or easily separable document. The sole purpose of the letter of agency shall be to authorize a charge for goods or services to appear on the customer's telephone bill. The letter of agency must be of sufficient size to be clearly legible and must contain clear and unambiguous language that contains separate statements for each good or service for which the customer is agreeing to be billed. The letter of agency must be signed and dated by the customer.

(2) If the customer's authorization is oral, the authorization must be verified by an independent third-party verifier. The verification is valid only if:

(i) the independent third party confirms the customer's identity with information unique to the customer unless the customer refuses, then that fact must be noted; and

(ii) the independent third party informs the customer that the customer is agreeing to be billed for goods or services that will appear as a charge on the customer's telephone bill.

(3) If a customer enters a contract via the Internet with a third-party service provider for goods or services which are charged to the bill issued by the customer's telephone company or telecommunications carrier providing local service, the third-party service provider must, within 48 hours of receiving the customer's authorization, send the customer, via e-mail, a notice of verification confirming the authorization. The third-party service provider shall maintain a copy of the notice of verification for the duration of the contract as a record of the customer's express authorization to be charged for the goods or services on the customer's telephone bill for local service.

(d) For direct-dialed calls, where the call itself represents the service for which the charge is placed on a customer's local telephone bill, such as "900 number" services and "dial around" services, evidence that the call was placed from the number that is subject to the telephone bill shall be considered sufficient evidence of authorization for that call for billing authorization purposes established in this section. Nothing in this section shall be construed to change a telephone company's or telecommunication carrier's obligations or affect a telephone subscriber's rights under section 325F.692.

(e) This section does not apply to charges for collect calls.

(f) Nothing in this section restricts the right of a telephone company or telecommunications carrier to seek to recover from a third-party service provider unauthorized charges credited to the customer by the telephone company or telecommunications carrier.

### **237.67 ANNUAL LEGISLATIVE REPORT.**

Beginning January 1, 1988, the commission and the department shall annually report to the legislature on the implementation of Laws 1987, chapter 340, and recommend changes necessary to assure high-quality and affordable telephone services for the residents of the state.

### **237.681 PRIVATE SHARED SERVICES.**

Subd. 5. **Exemption.** A commercial shared services provider is exempt from section 237.16 if the private shared services are only provided to tenants or for the provider's own use.

### **237.73 OBTAINING SERVICE BY FRAUD; INJUNCTION.**

Subdivision 1. **Equitable relief.** Whenever it appears that a person is engaged in an act that constitutes or will constitute a violation of section 609.893, a representative of a telecommunications provider or a person harmed by an alleged violation of section 609.893 may begin a civil proceeding in a district court to enjoin the violation and may petition the court to issue an order for the discontinuance of telephone service.

Subd. 2. **Venue.** An action under this section must be brought in the county in which subject matter of the action, or some part of it, is located or found, and must be commenced by the filing of a complaint that must be verified by affidavit.

Subd. 3. **Temporary restraining order.** If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in an act that constitutes a violation of section 609.893, the court shall issue a temporary restraining order to abate and prevent the continuance or recurrence of the act. Notice of the complaint shall be given and a hearing on the issuance of a temporary restraining order shall be held under the Rules of Civil Procedure. The court shall direct the county sheriff to seize and keep until further order of the court any device that is being used in violation of section 609.893. The temporary restraining order expires after ten days.

Subd. 4. **Permanent injunction.** The court may issue a permanent injunction to restrain, abate, or prevent the continuance or recurrence of the violation of section 609.893. The court may grant declaratory relief, mandatory orders, or any other relief it judges necessary to accomplish the purposes of the injunction. The court may keep jurisdiction of the case for the purpose of enforcing its orders.

Subd. 5. **Discontinuance of telephone service.** If it is shown to the satisfaction of the court, by affidavit, that a person is engaged in an act that constitutes a violation of section 609.893, the court may issue an order that shall be promptly served upon the person in whose name the telecommunications device is listed, requiring the party, within a reasonable time to be fixed by the court but not exceeding 48 hours from the time of service of the petition on said party, to show cause before the judge why telephone service should not promptly be discontinued. At the hearing, the burden of proof is on the complainant.

Subd. 6. **Disconnect order.** Upon a finding by the court that the telecommunications device is being used or has been used in violation of section 609.893, the court shall issue an order requiring the telephone company that is rendering service over the device to disconnect the service. Upon receipt of the order, that shall be served upon an officer of the telephone company by the sheriff of the county in which the telecommunications device is installed or by a duly authorized deputy, the telephone company shall proceed promptly to disconnect and remove the service and discontinue all telephone service until further order of the court.

Subd. 7. **Immunity.** No telephone company is liable for any damages, penalty, or forfeiture, whether civil or criminal, for an act performed in compliance with an order issued by the court.

#### **237.74 REGULATION OF TELECOMMUNICATIONS CARRIER.**

Subdivision 1. **Filing requirements.** Every telecommunications carrier shall elect and keep on file with the department either a tariff or a price list for each service on or before the effective date of the tariff or price, containing the rules, rates, and classifications used by it in the conduct of the telephone business, including limitations on liability. The filings are governed by chapter 13. The department shall require each telecommunications carrier to keep open for public inspection at designated offices so much of these rates, tariffs or price lists, and rules as the department considers necessary for public information.

Subd. 2. **Discrimination prohibited; practices, services, rates.** No telecommunications carrier shall offer telecommunications service within the state upon terms or rates that are unreasonably discriminatory. No telecommunications carrier shall unreasonably limit its service offerings to particular geographic areas unless facilities necessary for the service are not available and cannot be made available at reasonable costs. The rates of a telecommunications carrier must be the same in all geographic locations of the state unless for good cause the commission approves different rates. A company that offers long-distance services shall charge uniform rates and charges on all long-distance routes and in all geographic areas in the state where it offers the services. However, a carrier may offer or provide volume or term discounts or may offer or provide unique pricing to certain customers or to certain geographic locations for special promotions, and may pass through any state, municipal, or local taxes in the specific geographic areas from which the taxes originate.

Notwithstanding any other provision of this subdivision, a telecommunications carrier may furnish service free or at reduced rates to its officers, agents, or employees in furtherance of their employment.

Subd. 3. **Special pricing.** Except as prohibited by this section, prices unique to a particular customer or group of customers may be allowed for services when differences in the cost of providing a service or a service element justify a different price for a particular customer or group of customers. Individual pricing for services may be allowed when a uniform price should not be required because of market conditions. Unique or individual prices for services or service elements in effect before August 1, 1993, are deemed to be lawful under this section.

Subd. 4. **Investigation, hearing, order, appeal.** (a) When the commission or the department believes that an investigation of any matter relating to any telephone service should for any reason be made, it may on its own motion investigate the service or matter upon notice to the carrier. However, telecommunications carriers are not subject to rate or rate of return regulation and neither the commission nor the department may investigate any matter relating to a telecommunications carrier's costs, rates, or rate of return, except the commission and the department may investigate whether a rate is unreasonably discriminatory under subdivision 2.

(b) Upon a complaint made against a telecommunications carrier by a telephone company, by another telecommunications carrier, by the governing body of a political subdivision, or by

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no fewer than five percent or 100, whichever is the lesser number, of the subscribers or spouses of subscribers of the particular telecommunications carrier, that any of the rates, tolls, tariffs or price lists, charges, or schedules is in any respect unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission, after notice to the telecommunications carrier, shall investigate the matters raised by the complaint.

(c) If, after making an investigation under paragraph (a) or (b), the commission finds that a significant factual issue raised has not been resolved to its satisfaction, the commission may order that a contested case hearing be conducted under chapter 14 unless the complainant, the telecommunications carrier, and the commission agree that an expedited hearing under section 237.61 is appropriate.

(d) In any complaint proceeding authorized under this section, telecommunications carriers shall bear the burden of proof consistent with the allocation of the burden of proof to telephone companies in sections 237.01 to 237.73.

(e) A full and complete record must be kept by the commission of all proceedings before it upon any formal investigation or hearing and all testimony received or offered must be taken down by the stenographer appointed by the commission and a transcribed copy of the record furnished to any party to the investigation upon the payment of the expense of furnishing the transcribed copy.

If the commission finds by a preponderance of the evidence presented during the complaint proceeding that existing rates, tolls, tariffs or price lists, charges, or schedules are unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission may issue its order requiring termination of the discrimination or making the service adequate or obtainable.

(f) A copy of an order issued under this section must be served upon the person against whom it runs or the person's attorney, and notice of the order must be given to the other parties to the proceedings or their attorneys.

(g) Any party to a proceeding before the commission or the attorney general may make and perfect an appeal from the order in accordance with chapter 14.

If the court finds from an examination of the record that the commission erroneously rejected evidence that should have been admitted, it shall remand the proceedings to the commission with instructions to receive the evidence rejected and any rebutting evidence and to make new findings and return them to the court for further review. Then the commission, after notice to the parties in interest, shall proceed to rehear the matter in controversy and receive the wrongfully rejected evidence and any rebutting evidence offered and make new findings, as upon the original hearing, and transmit it and the new record properly certified to the Court of Appeals, when the matter shall be again considered by the court in the same manner as in an original appeal.

(h) When an appeal is taken from any order of the commission under this chapter, the commission shall, without delay, have a certified transcript made of all proceedings, pleadings and files, and testimony taken or offered before it upon which the order was based, showing particularly what, if any, evidence offered was excluded. The transcript must be made and filed with the court administrator of the district court where the appeal is pending.

**Subd. 5. Extension of facility.** A telecommunications carrier may extend its facilities into or through a statutory or home rule charter city or town of this state for furnishing its services, subject to the provisions of sections 237.162 and 237.163. Nothing in this subdivision shall be construed to allow or prohibit facilities bypass of the local exchange telephone company, nor shall it be construed to prohibit the commission from issuing orders concerning facilities bypass of the local exchange telephone company.

**Subd. 6. Tariff or price list change.** (a) Telecommunications carriers may:

(1) decrease the rate for a service, or make any change in a tariff or price list that results in a decrease in rates, effective without notice to its customers or the commission; and

(2) offer a new service, increase the rate for a service, or change the terms, conditions, rules, and regulations of its service offering effective upon notice to its customers. Subject to subdivisions 2 and 9, a telecommunications carrier may discontinue a service, except that a telecommunications carrier must first obtain prior commission approval before discontinuing service to another telecommunications carrier if end users would be deprived of service because of the discontinuance.

(b) A telecommunications carrier may give notice to its customers by bill inserts, by publication in newspapers of general circulation, or by any other reasonable means. However, notice of increases for intrastate residential rates for the services referenced in section 237.662, subdivision 1, shall be made by bill inserts prominently displaying the notice of price increase on the customer's bill, or by a direct mailing or phone call to the customer. Customer notices for increases of intrastate rates for those services must include as a heading "NOTICE OF PRICE INCREASE".



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Subd. 7. **Occasional use.** A telecommunications carrier shall not be deemed to provide local exchange services within the meaning of sections 237.01 and 237.035 merely because of occasional use of the service by the customer for local exchange service related to the provision of interexchange services.

Subd. 8. **Uniform rules.** Telecommunications carriers are subject to uniform rules pertaining to the conduct of intrastate telephone services by telecommunications carriers that the commission has prescribed and may prescribe, to the extent the rules are not inconsistent with this section. Rules, forms, or reports required by the commission must conform as nearly as practicable to the rules, forms, or reports prescribed by the Federal Communications Commission for interstate business.

Subd. 9. **Discontinuance.** If a physical connection exists between a telephone exchange system operated by a telephone company and the toll line or lines operated by a telecommunications carrier, neither of the companies shall have the connection severed or the service between the companies discontinued without first obtaining an order from the commission upon an application for permission to discontinue the physical connection. Upon the filing of an application for discontinuance of the connection, the department shall investigate and ascertain whether public convenience requires the continuance of the physical connection, and if the department so finds, the commission shall fix the compensation, terms, and conditions of the continuance of the physical connection and service between the telephone company and the telecommunications carrier. Prior commission approval is not required for severing connections where multiple local exchange companies are authorized to provide service. However, the commission may require the connections if it finds that the connections are in the public interest, but may not require connections with a telecommunications carrier certified to provide only interexchange service.

Subd. 10. **Cost of examination; assessment of expenses; limitation; objection.** Section 237.295 applies to telecommunications carriers as it does to telephone companies.

Subd. 11. **Enforcement; penalties and remedies.** (a) This section and rules and orders of the commission adopted or issued under this section may be enforced by criminal prosecution, action to recover civil penalties, injunction, action to compel performance, other appropriate action, or any combination of penalties and remedies.

(b) A person who knowingly and intentionally violates this section or a rule or order of the commission adopted or issued under this section shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least \$100 and not more than \$1,000 for each day of each violation. The civil penalties provided for in this paragraph may be recovered by a civil action brought by the attorney general in the name of the state. Amounts recovered under this paragraph must be paid into the state treasury.

Subd. 12. **Certification requirement.** No telecommunications carrier shall construct or operate any line, plant, or system, or any extension of it, or acquire ownership or control of it, either directly or indirectly, without first obtaining from the commission a determination that the present or future public convenience and necessity require or will require the construction, operation, or acquisition, and a new certificate of territorial authority. Nothing in this subdivision requires a telecommunications carrier that has been certified by the commission to provide telephone service before August 1, 1993, to be recertified under this subdivision. Nothing in this subdivision shall be construed to allow or prohibit facilities bypass of the local exchange telephone company, nor shall it be construed to prohibit the commission from issuing orders concerning facilities bypass of the local exchange telephone company.

Subd. 13. **International call blocking.** A telecommunications carrier, on its own or in conjunction with the telephone subscriber's provider of local telephone service, shall offer comprehensive international toll blocking of nondomestic area codes that are part of the North American numbering plans, as a condition of offering service in Minnesota.

### **237.75 CLASS SERVICE.**

Subdivision 1. **Definition.** For purposes of this section, "CLASS" or "custom local area signaling service" means a custom calling telephone service that is enabled through the installation or use of Signaling System 7 or similar signaling system and that includes at least the following features:

- (1) automatic call back;
- (2) automatic recall;
- (3) calling number delivery, commonly known as "caller identification";
- (4) calling number delivery blocking;
- (5) customer originated call tracing;



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- (6) distinctive ringing/call waiting;
- (7) selective call acceptance;
- (8) selective call forwarding; and
- (9) selective call rejection.

Subd. 2. **CLASS; terms and conditions.** By January 1, 1994, the commission shall determine the terms and conditions under which CLASS services may be provided by telephone companies in this state.

Subd. 3. **CLASS; capability and offering of service.** Each telephone company that provides local telephone service to persons located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington shall obtain the capability to offer CLASS services in those counties by January 1, 1995, unless the commission approves an extension to a date certain.

### **237.76 PURPOSE.**

A telephone company may petition the commission for approval of an alternative regulation plan under sections 237.76 to 237.774. The purpose of an alternative regulation plan is to provide a telephone company's customers with service of a quality consistent with commission rules at affordable rates, to facilitate the development of telecommunication alternatives for customers, and to provide, where appropriate, a regulatory environment with greater flexibility than is available under traditional rate-of-return regulation as reflected in other provisions of this chapter.

### **237.761 ALTERNATIVE REGULATION PLAN; SERVICE.**

Subdivision 1. **Classification of services.** An alternative regulation plan must contain provisions that provide for classification of all telephone services as price regulated, flexibly priced, or nonprice regulated consistent with subdivisions 2 to 5.

Subd. 2. **Price-regulated service; definition.** For purposes of this section, the term "price-regulated service" includes only those services that are:

- (1) essential for providing local telephone service and access to the local telephone network;
- (2) integrally related to privacy, health, and safety of the company's customers; and
- (3) for which no reasonable alternative exists within the relevant market or geographic area on reasonably comparable terms and conditions.

Subd. 3. **Specific price-regulated services.** Price-regulated telephone services are the following:

- (1) residential and business service for local calling, including measured local service, two-party service, private branch exchange (PBX) trunks, trunk type hunting services, direct inward dialing, the network access portion of central office switched exchange service, and public access lines for customer-owned coin-operated telephones;
- (2) extended area service;
- (3) switched network access service;
- (4) call tracing;
- (5) calling number blocking;
- (6) touch tone service when provided separately from basic local exchange service;
- (7) local exchange, white-page, printed directories;
- (8) 911 emergency services;
- (9) installation and repair of local network access;
- (10) local operator services, excluding directory assistance; and
- (11) toll service blocking and 1-900 or 976 access blocking.

Subd. 4. **Flexibly priced service.** (a) A service not listed in subdivision 3 or not otherwise determined to be price regulated under subdivision 6 or 7 or nonprice regulated must be classified as a flexibly priced service.

(b) Flexibly priced services are regulated consistent with section 237.60, subdivision 2, except that:

- (1) rate decreases may be effective immediately upon filing and upon notice to affected customers; and
- (2) rate increases may be effective 20 days after filing and upon notice to affected customers and are considered approved if no objection is filed or raised by an interested party or the commission within 20 days after the filing. If an interested party files an objection, the commission shall make its determination on the proposed rate increase within 90 days of the filing of the objection.

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Subd. 5. **Non-price-regulated service.** (a) A service must be classified as nonprice regulated if the commission finds, based upon evidence filed by the telephone company and other evidence available to the commission and consistent with the company's proposed plan, that there is sufficient competition to justify classification as nonprice regulated. In making that determination, the factors the commission shall consider include:

- (1) the number, size, and identity of competitors providing the same or functionally equivalent service;
- (2) the geographic area in which competitive service is actually available to and being used by customers, to the extent this information is available to the commission;
- (3) the importance of the service to the public; and
- (4) the effect of classification of the service on the development of a competitive telecommunications market.

(b) Telephone companies shall file tariffs or price lists for non-price-regulated services with the commission, but the rates for these services are not subject to commission approval or investigation except as provided in subdivision 6 and sections 237.762, subdivision 6, 237.770, and 237.771.

Subd. 6. **Reclassification.** An alternative regulation plan may contain provisions allowing for the reclassification of services during the course of the plan upon a showing that the service meets the criteria contained in subdivision 2, 3, 4, or 5, and the plan, for the requested classification.

Subd. 7. **New service; classification; rate.** At the time the company first offers a service, it shall file a tariff or price list and the proposed classification for the service under the plan along with a written explanation of why the proposed classification is consistent with this section. New services classified as flexibly priced or nonprice regulated may be offered on one day's notice to the commission and the department. New services classified as price regulated may be offered pursuant to the terms set forth in the plan. A service is not considered a new service if it consists of a repackaging including bundling, unbundling, or repricing of an already existing service. If no interested party or the commission objects to the company's proposed classification within 30 days of the filing of the petition, the company's proposed classification of the service is approved. If an objection is filed, the commission shall determine the classification of the service within 90 days of the filing of the new service.

Subd. 8. **Investment commitment.** (a) An alternative regulation plan must also include a plan outlining the company's commitment to invest in telecommunications infrastructure improvements in this state over a period of not less than six years.

(b) An investment plan shall include all of the following:

- (1) a description of the level of planned investment in technological or infrastructure enhancement;
- (2) a description of the extent to which planned investment will make new telecommunications technology available to customers or expand the availability of current technology;
- (3) a description of the planned deployment of fiber-optic facilities or broadband capabilities to schools, libraries, technical colleges, hospitals, colleges and universities, and local governments in this state; and
- (4) a description of planned investment and deployment of higher speed telecommunications services and increased capacity for voice, video, and data transmission, in both the metropolitan and outstate portions of the company's service territory.

### 237.762 ALTERNATIVE REGULATION PLAN RATE, PRICE.

Subdivision 1. **Initial rate.** An alternative regulation plan approved by the commission under this section must provide that the recurring and nonrecurring rates or prices that may be charged by a telephone company for price-regulated services are no higher than the approved rate or prices on file with the commission for those services on the date of the filing of the plan. Furthermore, no plan may in any way change the terms or conditions of any access charge settlements approved by the commission or exempt any company from compliance with any commission access charge order issued before the filing of a plan. The plan must address implementation of additional access charge reductions that may occur during that portion of the plan that extends beyond expiration of commission-approved settlements.

Subd. 2. **New service; rate.** For services offered by the telephone company for the first time after August 1, 1995, the rates or prices must equal or exceed the total service long-run incremental cost of the service.

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Subd. 3. **Rate change.** (a) An alternative regulation plan must set forth the procedures under which the telephone company may reduce the rates or prices for price-regulated services below the initial rates or prices or thereafter increase the rates or prices during the term of the plan. The rates or prices may not be reduced below the total service long-run incremental cost of providing the service. Except as provided in paragraph (b), the rates or prices may not exceed the initial rates or prices for the service determined under subdivision 1 for the first three years of the plan. After a plan has been in effect for three years, price-regulated rates may be changed as appropriate under a procedure set forth in an approved plan. Rates for price-regulated services may not be increased unless the company has demonstrated substantial compliance with the quality of service standards set forth in the plan.

(b) An approved plan may allow changes in rates for price-regulated services after two years to reflect:

(1) changes in state and federal taxes;

(2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level; and

(3) substantial financial impacts of investments in telecommunications infrastructure which are made: (i) if the investments, for any 12-month period, exceed 20 percent of the gross plant investment of the company; or (ii) are the result of government mandates to construct specific telephone infrastructure, the mandate applies to local telephone companies, and the company would not otherwise be compensated through some other manner under the plan.

Subd. 4. **Bundled rates.** When the rates or prices for services are unbundled, the price for each basic network function must be set to equal or exceed its total service long-run incremental cost. Before August 1, 1997, if the rates or prices for price-regulated services are bundled, the bundled rate or price may not exceed the sum of the unbundled rates or prices for the individual service elements or services or the total initial bundled rate or price for those service elements or services.

Subd. 5. **Income-neutral change.** Other than as authorized in this subdivision, an initial alternative regulation plan must not permit income-neutral rate changes for price-regulated services during the plan except as is necessary to implement extended area service or any successor to that service. Any plan must provide that after the rules issued pursuant to section 237.16 are adopted, rates for price-regulated services may be increased, as approved by the commission, to the extent necessary to carry out the purpose of those rules. However, rate increases, if any, for those services must be incorporated with a universal service fund so that the effective rate for the customers of those services does not increase during the first three years of the plan.

Subd. 6. **Rate for other service.** The telephone company shall file price lists with the commission for all flexibly priced or non-price-regulated services. The rate or price for each flexibly priced and non-price-regulated service must be equal to or exceed the total service long-run incremental cost of providing that service. In any proceeding regarding the appropriateness of a rate or price for a flexibly priced or non-price-regulated service, the telephone company has the burden of proving that the rate or price is above the total service long-run incremental cost of providing that service.

Subd. 7. **Packaged services.** This section does not prevent a telephone company from packaging any service classified as price regulated or flexibly priced pursuant to section 237.761, subdivisions 2 to 4, with any other service, or engaging in promotional activities concerning such services, so long as:

(1) the company also continues to offer these price-regulated and flexibly priced services as separate stand-alone services at prices required by this section; and

(2) at the time the packaged offering is introduced, or at the time the package price is subsequently changed, the packaged rate or price may not exceed the sum of the unpackaged rates or prices for the individual service elements or services.

### **237.763 EXEMPTION FROM EARNINGS REGULATION AND INVESTIGATION.**

Except as provided in the plan and any subsequent plans, a company that has an alternative regulation plan approved under section 237.764, is not subject to the rate-of-return regulation or earnings investigations provisions of section 237.075 or 237.081 during the term of the plan. A company with an approved plan is not subject to the provisions of section 237.57; 237.59; or 237.60, subdivisions 1, 2, 4, and 5, during the term of the plan. Except as specifically provided in this section or in the approved plan, the commission retains all of its authority under section 237.081 to investigate other matters and to issue appropriate orders, and the department retains

its authority under sections 216A.07 and 237.15 to investigate matters other than the earnings of the company.

#### **237.764 PLAN ADOPTION; EFFECT.**

Subdivision 1. **Petition, notice, hearing, and decision.** (a) Before acting on a petition for approval of an alternative regulation plan, the commission shall conduct any public meetings it may consider necessary.

(b) The commission shall require the petitioning telephone company to provide notice of the proposed plan to its customers, along with a summary description of the plan provisions and the dates, times, and locations of public meetings scheduled by the commission.

(c) The company's petition shall contain an explanation of how ratepayers will benefit from the plan and a justification of the appropriateness of earnings levels and rates in light of the proposed plan as well as any proposed changes in rates for price-regulated services for the first three years of the proposed plan. If a telephone company has completed a general rate proceeding, rate investigation, or audit of its earnings by the department or commission within two years of the initial application for an alternative form of regulation plan, the commission order or department audit report, updated for the most recent calendar year, is sufficient justification of earnings levels to initiate the filing of an alternative regulation plan. At the time of filing a plan, the current earnings level of a telephone company with more than 1,000,000 access lines in Minnesota shall be deemed reasonable.

(d) The commission shall conduct a proceeding under section 237.61 to decide whether to approve the plan and shall grant discovery as appropriate.

(e) The commission shall issue findings of fact and conclusions concerning the appropriateness of the proposed initial rates, where necessary, and the proposed plan, or any modifications to it, but may not order that a modified plan take effect without the agreement of the petitioning telephone company. The commission shall issue its decision on a plan within six months after receiving the petition to approve the plan unless the commission and the petitioning company agree to an extension of the time for commission action.

(f) If a settlement is submitted to the commission, the commission shall accept, reject, or modify the proposed settlement within 60 days from the date it was submitted.

Subd. 2. **Settlement; stipulation; final order.** Upon receipt of a petition for an alternative regulation plan, the commission shall convene a conference including all interested parties to encourage settlement or stipulation of issues. Any settlement or stipulation must be submitted to the commission, which shall accept or reject the proposal in its entirety or modify it. If the commission modifies the proposal, all parties have 30 days to comment on the proposed modifications, after which the commission shall issue its final order. If the final order contains modifications to the proposal, each party to the settlement has ten days to reject the proposed modifications, in which case the matter must be decided under section 237.61. After appropriate notice and hearing for all parties, the commission may adopt a stipulation submitted by a substantial number of, but less than all, parties.

Subd. 3. **Effect on incentive plan.** The approval of a plan under this section automatically terminates any existing incentive plan previously approved under section 237.625, prior to its expiration on August 1, 1999, upon the effective date of the plan approved under this section. However, the company remains obligated to share earnings under the terms of the incentive plan through the date of the termination of that plan and also is required to complete the performance of any other unexecuted commitments under the incentive plan.

#### **237.765 QUALITY OF SERVICE.**

(a) For an alternative regulation plan to be approved by the commission under sections 237.76 to 237.774, the plan must contain an existing service quality plan or settlement for retail customers approved by the commission or if no such plan or settlement has been approved, the commission shall require:

(1) evidence that current service quality substantially complies with commission rules as to justify lessened rate regulation;

(2) a baseline measurement of the quality of service levels as achieved by the company during the previous three years, to the extent the data are available, and specific statewide standards for measuring the quality of price-regulated and flexibly priced services provided by the company, including, but not limited to (i) time intervals for installation, (ii) time intervals for restoration or repair of service, (iii) trouble rates, (iv) exchange access line held orders, and (v) customer service answer time;

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(3) provisions for reporting to the commission at least annually the company's performance as to the quality of service standards by quarter for the previous year;

(4) provisions that index quality of service standards for local residence services to similar standards for local business services;

(5) appropriate remedies, including penalties and customer-specific adjustments or payments to compensate customers for specific quality of service failures, so as to ensure substantial compliance with the quality of service standards set forth in the plan; and

(6) provisions for informing customers of their rights as to quality of service and how customers can register their complaints regarding service.

(b) Any penalties under paragraph (a), clause (5), shall be returned to customers under a method set forth in the plan.

(c) The terms of an existing service quality plan or settlement approved by the commission must be offered to extend through the duration of an alternative regulation plan filed under this section.

#### **237.766 PLAN DURATION AND EXTENSION.**

Subdivision 1. **Plan duration.** An alternative regulation plan approved by the commission under section 237.764 must remain in force as approved for the term specified in the plan, which must be for no less than three years. Except as otherwise provided in this section, within six months prior to the termination of the plan the company shall give notice that it will propose a new plan, extend an existing plan, or revert to rate of return regulation.

Subd. 2. **New plan.** A new plan proposed by a company must be reviewed by the commission and, with the consent of the company, revised or approved consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required, and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a new plan. Any new plan must be approved by the commission and shall contain a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review. A new plan is not an extension, which must be made pursuant to subdivision 3.

Subd. 3. **Plan extension.** (a) Notwithstanding the provisions of its plan, a telephone company operating under a plan as of May 20, 2004, may elect to extend that plan for up to three years from the expiration date of the plan or until December 31, 2007, whichever is earlier. The election is effective upon notification to customers, the commission, the department, and the Office of the Attorney General. A telephone company must provide notification of its election within 30 days of May 20, 2004, or within six months of the expiration of its current or expired plan, whichever is later. Once a telephone company has elected to exercise the option provided under this subdivision, the company may elect at any time to terminate the plan by notifying customers, the commission, the department, and the Office of the Attorney General, in writing, six months prior to the termination date. Upon termination of a plan, the company shall be regulated as provided in this chapter.

(b) A telephone company may elect to extend a plan entered into after May 20, 2004, in lieu of proposing a new plan only if the company is in substantial compliance with the plan's service quality provisions and has met its infrastructure obligations under the plan. If the company elects to extend a plan, the rates for price-regulated services shall be capped at the rate levels in effect at the time the extension commences, provided, however, exceptions to a price cap contained in the plan being extended may remain in force. Unless otherwise specified in the plan, all other provisions of the plan shall continue in effect throughout the extension period. A plan may not be extended for less than one year or more than three years, and may only be extended once.

(c) The Department of Commerce or the Office of the Attorney General may file an objection to the extension with the commission if the company is not in substantial compliance with the service quality provisions of its plan or has not met its infrastructure obligations under the plan. An objection must be filed within 45 days of the company's notice of its intention to extend the plan.

(d) If an objection is filed by the Department of Commerce or the Office of the Attorney General, the commission may hold a hearing on the issues raised in the objection. The hearings shall be completed within 30 days of the deadline for filing the objections. If the commission finds that the issues raised in the objection are valid, it may reject the extension. If the commission finds

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that the issues raised in the objection are not valid, it shall approve the extension. The commission shall issue its decision within 15 days of the completion of the hearings concerning the objection.

(e) If the Department of Commerce or the Office of the Attorney General does not file an objection, the commission shall approve the extension within 60 days of the company's filing of its notice of its intention to extend the plan.

**Subd. 4. Joining an existing plan.** (a) A telephone company may elect to opt into another company's plan if:

- (1) the chosen plan is from a company that is larger than the electing company; or
- (2) the chosen plan is from an affiliated company; and
- (3) the plan is currently in effect.

(b) A telephone company electing to enter an existing plan in lieu of proposing a new plan must operate under the terms of that plan for at least three years. If the original term of the existing plan was longer than three years, then the adopting company must operate under the plan for that longer period.

(c) A telephone company that desires to adopt an existing plan must give notice to the commission at least 90 days prior to the proposed effective date of the adoption and to its customers at least 60 days prior to the proposed effective date.

(d) The Department of Commerce or the Office of the Attorney General may file an objection to a telephone company that has previously operated under a plan from electing to opt into the plan of another company if the electing company is not in substantial compliance with the service quality provisions or has not met the infrastructure obligations of its plan.

(e) If a telephone company has not previously operated under an alternative regulation plan, the rates for its price-regulated services must be capped for the first three years at the rates in effect at the time of opt in, except for any plan provisions that address exogenous changes.

(f) Within 30 days of the electing company filing notice to the commission, interested parties may file comments identifying any aspect of the adoption that the party believes is contrary to the public interest. Reply comments may be filed within 45 days following the notice to the commission. The commission shall accept the adoption unless it finds adoption of the existing plan by the electing telephone company is not in the public interest, in which case it may reject or modify the election to opt into the provisions of the existing plan. If the commission modifies the election, the electing company may withdraw its proposed adoption of the existing plan by filing notice with the commission within 30 days of the commission's modification order.

### **237.767 DISCONTINUANCE OF SERVICE.**

Without the express approval of the commission, a telephone company subject to a plan may not discontinue the provision of a service or basic network function that has been classified as price regulated or flexibly priced.

### **237.768 PERIODIC FINANCIAL REPORT.**

In addition to the reports required under section 237.766, an alternative regulation plan may require a telephone company to file with the department an annual report of financial matters for the previous calendar year on or before May 1 of each year on report forms furnished by the department in the same manner as is required of other telephone companies on August 1, 1995. In addition, any company subject to a plan shall file with the commission and department a copy of any filings it has made to the Federal Communications Commission regarding the provisions of video programming provided through a video dial tone facility in Minnesota. An alternative regulation plan may require a telephone company to maintain its accounts in accordance with the system of accounts prescribed for the company by the commission under section 237.10.

### **237.769 RULES APPLICABLE.**

Any company under a plan is subject to any rules adopted under section 237.16 on the same date as those rules are applicable to other companies.

### **237.770 SUBSIDIZATION.**

No telephone company shall subsidize flexibly priced or non-price-regulated services from other services. A telephone service is not subsidized if the aggregate revenues for the service equal or exceed the total service long-run incremental costs of providing the service. If the commission determines, after a proceeding under section 237.081, that subsidization

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exists, it shall order changes in rates to price the subsidized service above total service long-run incremental cost and may invoke any other remedies otherwise available under this chapter.

#### **237.771 DISCRIMINATION.**

The rates of a telephone company under a plan must be the same in all geographic locations of the state except for good cause. A plan may contain provisions that define good cause, including consideration of the ability to respond to competition. Sections 237.09, 237.121, and 237.60, subdivision 3 apply to a telephone company under a plan.

#### **237.772 COST STUDY METHODOLOGY.**

Subdivision 1. **Total service long-run incremental cost.** (a) For purposes of this chapter, total service long-run incremental cost (TSLRIC) means the total cost to the company of supplying a service, group of services, or basic network function. The term "long-run" means a period of time sufficient so that all inputs are avoidable based on the total increment of service, group of services, or basic network function and includes the relevant costs resulting from the company's decision to provide the service, group of services, or basic network function, holding constant the production levels of all other services, groups of services, or basic network functions provided by the company.

(b) A telephone company is not required to prepare or file TSLRIC or variable cost studies for all of its services as a prerequisite to filing a plan. However, the commission may order cost studies to be prepared for specific services as a condition of approval of the plan.

Subd. 2. **Petition for variable cost study.** To the extent that this section or the commission may require a company to provide a TSLRIC study, a company may submit a petition to the commission for permission to submit a variable cost study instead of a TSLRIC study. The commission shall grant the petition if the telephone company demonstrates:

(1) that a TSLRIC study is burdensome in relation to its annual revenue from the service involved;

(2) in the case of an existing service, that the service is no longer being offered to new customers; or

(3) if the telephone company shows other good cause.

#### **237.773 ALTERNATIVE REGULATION FOR SMALL TELEPHONE COMPANY.**

Subdivision 1. **Definition.** For purposes of this section, "small telephone company" means a local exchange telephone company with fewer than 50,000 subscribers that has made an election under subdivision 2 whether or not the company is subject to sections 237.59 and 237.60, subdivisions 1, 2, and 5.

Subd. 2. **Election; effect.** A local telephone company with fewer than 50,000 subscribers may elect to become a small telephone company by notice to the commission, in writing, of its decision. The small telephone company may not revoke its election for three years after making the election. While that election remains in effect, a small telephone company is not subject to the rate-of-return regulation or earnings investigation provisions of section 237.075 or 237.081.

If, before electing under this subdivision, a small telephone company has been found by the commission to have significant quality of service problems in violation of applicable commission rules, that company must either resolve the quality of service problems or develop a plan to resolve the quality of service problems in conformance with section 237.765. The quality of service plan must be approved by the commission in order for an election under this subdivision to be effective. The commission shall make a determination on the quality of service plan within 60 days after it is submitted.

Subd. 3. **Local rate.** (a) Except as provided in paragraph (b), a small telephone company shall not implement a rate increase for any service listed in section 237.761, subdivision 3, beyond the level in effect 60 days prior to an election under subdivision 2, until the later of January 1, 1998, or two years after making an election. However, a small telephone company may implement any new service and establish rates for any new service and may change rates for any other service at any time subject to the requirements of section 237.761, subdivision 4. A small company shall provide to its customers the ability to block, at no extra charge, any new service which it offers, provides, or bills. This requirement shall not apply to services that require affirmative subscription by the customer. Nothing in this section shall prevent the commission from requiring blocking or other privacy or safety protections for other types of telecommunications services under section 237.081.

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(b) At any time following one year after electing under subdivision 2, a small telephone company may change rates for local services except switched network access services, listed in section 237.761, subdivision 3, to reflect:

(1) changes in state and federal taxes;

(2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the small telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level;

(3) substantial financial impacts of investments in network upgrades which are made; or

(i) if the investment exceeds 20 percent of the gross plant investment of the company; or

(ii) as the result of government mandates to construct specific telephone infrastructure, if the mandate applies to local telephone companies and the company would not otherwise be compensated.

A small telephone company may change rates for local services listed in section 237.761, subdivision 3, at any time, to implement extended area service or any successor to that service on an income-neutral basis.

A small telephone company proposing an increase under this subdivision shall provide 60 days' advance written notice to the department and each of the company's customers including the individual rates affected and the procedure necessary for the customers to petition for investigation. If the department receives a petition within 45 days after the notice from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the rate change to determine if it conforms to the limitations of this subdivision. Within 30 days of validating the petition, the department shall report its findings to the commission, which shall either adopt the report or order changes to conform to this subdivision.

(c) On or after the later of January 1998, or two years after making an election under subdivision 2, a small telephone company may increase rates for local services, except switched network access services, listed in section 237.761, subdivision 3. A small telephone company proposing an increase shall provide 60 days' advance written notice to its customers including individual rates affected and the procedure necessary for the customers to petition for investigation. If the commission receives a petition within 45 days after such notice, from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the proposed rate increase to determine if it is appropriate in light of rates charged by other local exchange telephone companies for comparable services, taking into account calling scope, quality of service, the availability of competitive alternatives, service costs, and the features available to the customers. Within 30 days of validating the petition, the department shall file a report with the commission which shall then approve appropriate rates for those services. Rates established by the commission under this paragraph shall not be increased within one year of implementation.

**Subd. 4. Access rate.** (a) No election by a small telephone company may in any way change the terms or conditions of any interexchange access charge settlements approved by the commission before an election under subdivision 2.

(b) While any interexchange access charge settlement approved by the commission remains in effect, the commission and department shall enforce the agreement without further investigation of interexchange access charges or earnings relating to the interexchange access service. Except as specifically provided in this section, the commission retains all of its authority under section 237.081 to investigate other matters relating to interexchange access charges and to issue appropriate orders, and the department retains its authority under sections 216A.07 and 237.15 to investigate matters relating to interexchange access charges.

### **237.774 APPLICATION OF OTHER LAWS.**

Except as provided in sections 237.76 to 237.773, a telephone company subject to a plan approved under sections 237.764 and 237.773, shall comply with any state or federal laws governing the provision of telephone services. Nothing contained in sections 237.76 to 237.773 is intended in any way to change or modify the definitions contained in section 237.01 or what constitutes the provision of telephone service under this chapter or other laws.

### **237.775 EXISTING PLAN NOT AFFECTED.**



## APPENDIX

### Repealed Minnesota Statutes: 11-1299

An alternative regulation plan approved by the commission prior to May 1, 1997, is not subject to the amendments in Laws 1997, chapter 223; provided that a plan filed, revised, or renewed after that date is subject to those amendments.

#### **237.79 TELEPHONE COMPANY PROVIDING CABLE SERVICE.**

A telephone company that provides cable television services shall, with respect to provisioning of those services in Minnesota, be subject to the same franchise requirements, procedures, and fees, and public, educational, and government access requirements as a cable communication company under chapter 238.

#### **237.80 INTEREXCHANGE TELEPHONE SERVICE.**

Subdivision 1. **Definition, findings, and purpose.** (a) For purposes of this section, "act" means the federal Telecommunications Act of 1996, Public Law 104-104.

(b) The act establishes procedures whereby former Bell Operating Companies or their affiliates may obtain Federal Communications Commission authorization to provide intrastate inter-LATA telecommunications services and to promote the development of fair and reasonable competition.

(c) The purpose of this section is to promote the development of fair and reasonable competition in the telecommunications industry in Minnesota.

Subd. 2. **Consultation with FCC.** Any investigation or proceeding by the Minnesota Public Utilities Commission for the purpose of verifying compliance with the competitive checklist requirements of section 271(c) of the act must be completed by the commission and the resulting certification provided to the Federal Communications Commission within 90 days after receipt of a request for verification from the Federal Communications Commission.

#### **237.81 SCOPE.**

To the extent they regulate telecommunications right-of-way users, sections 237.04; 237.16, subdivision 1; 237.162; 237.163; and 237.74, subdivision 5, supersede section 222.37, and any ordinance, regulation, or rule to the contrary.