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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3247

03/20/2014 Authored by Johnson, S.,
The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries

A bill for an act

1.1 relating to telecommunications; modifying rate case procedures; standardizing
1.2 consumer billing practices; requiring intrastate call completion; simplifying
1.3 certification procedures; removing antiquated or obsolete provisions; amending
1.4 Minnesota Statutes 2012, sections 237.01, by adding subdivisions; 237.02;
1.5 237.035; 237.04; 237.075, subdivision 1; 237.081, subdivisions 1, 2, 4; 237.12,
1.6 by adding a subdivision; proposing coding for new law in Minnesota Statutes,
1.7 chapter 237; repealing Minnesota Statutes 2012, sections 237.03; 237.068;
1.8 237.072; 237.075, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11; 237.21; 237.22;
1.9 237.411; 237.44; 237.45; 237.57; 237.59, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9,
1.10 10; 237.64, subdivision 2; 237.67; 237.75; 237.76; 237.761; 237.762; 237.763;
1.11 237.764; 237.765; 237.766; 237.767; 237.768; 237.769; 237.770; 237.771;
1.12 237.772; 237.773, subdivisions 1, 2, 3, 4; 237.774; 237.775; 237.80.
1.13

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

1.15 Section 1. Minnesota Statutes 2012, section 237.01, is amended by adding a
1.16 subdivision to read:

1.17 Subd. 1a. **Basic services.** "Basic services" means telecommunications services
1.18 provided to residential customers and to business customers subscribing to three or fewer
1.19 business lines.

1.20 Sec. 2. Minnesota Statutes 2012, section 237.01, is amended by adding a subdivision
1.21 to read:

1.22 Subd. 3a. **Local service.** "Local service" means wire-line access to
1.23 telecommunications service enabling the customer to originate calls to, and receive calls
1.24 from, telephone numbers assigned under the North American Numbering Plan. Local
1.25 service does not include interexchange service.

2.1 Sec. 3. Minnesota Statutes 2012, section 237.01, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 5a. **Switched access rates.** "Switched access rates" means any charge by a
2.4 local service provider assessed to an interexchange carrier for the ability to originate or
2.5 terminate interexchange telecommunications traffic to or from the called party's premises.

2.6 Sec. 4. Minnesota Statutes 2012, section 237.01, is amended by adding a subdivision
2.7 to read:

2.8 Subd. 5b. **Telecommunications.** "Telecommunications" means the transmission of
2.9 information of the user's choosing between or among points specified by the user without
2.10 change in the form or content of the information as sent and received.

2.11 Sec. 5. Minnesota Statutes 2012, section 237.01, is amended by adding a subdivision
2.12 to read:

2.13 Subd. 6a. **Telecommunications service provider.** "Telecommunications service
2.14 provider" means a provider of wire-line service, packet-based service, data service, or any
2.15 other telecommunications service that provides a customer with the ability to originate
2.16 or terminate calls using the North American Numbering Plan, including but not limited
2.17 to telephone companies and telecommunications carriers.

2.18 Sec. 6. Minnesota Statutes 2012, section 237.01, is amended by adding a subdivision
2.19 to read:

2.20 Subd. 6b. **Telecommunications services.** "Telecommunications services" means
2.21 the offering of telecommunications for a fee directly to the public or to such classes of
2.22 users as to be effectively available to the public regardless of the facilities used.

2.23 Sec. 7. Minnesota Statutes 2012, section 237.01, is amended by adding a subdivision
2.24 to read:

2.25 Subd. 9. **Wholesale transport provider.** "Wholesale transport provider" means a
2.26 person, firm, association, or corporation that carries, delivers, routes, or transports any
2.27 telecommunications service, regardless of the technology used, on behalf of a telephone
2.28 company or telecommunications carrier or another wholesale transport provider, but is not
2.29 certified in Minnesota to provide retail telecommunications service to the public.

3.1 Sec. 8. Minnesota Statutes 2012, section 237.02, is amended to read:

3.2 **237.02 GENERAL AUTHORITY OF DEPARTMENT AND COMMISSION;**
 3.3 **DEFINITIONS.**

3.4 The Department of Commerce and the Public Utilities Commission are hereby
 3.5 vested with ~~the same~~ jurisdiction and supervisory power over telephone and companies,
 3.6 telecommunications companies carriers, telecommunications service providers, and
 3.7 wholesale transport providers doing business in this state as ~~the commission's predecessor,~~
 3.8 ~~the railroad and warehouse commission, had over railroad and express companies~~
 3.9 provided in this chapter. The definitions set forth in sections 216A.02 and 216B.02 also
 3.10 apply to this chapter.

3.11 Sec. 9. Minnesota Statutes 2012, section 237.035, is amended to read:

3.12 **237.035 TELECOMMUNICATIONS CARRIER EXEMPTION.**

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

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

3.16 (c) Telecommunications carriers shall comply with section 237.16, subdivisions
 3.17 8 and 9.

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

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

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

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

3.25 Sec. 10. Minnesota Statutes 2012, section 237.04, is amended to read:

3.26 **237.04 WIRE CROSSING OR PARALLELING UTILITY LINE; RULES.**

3.27 ~~(a) The department shall determine and promulgate reasonable rules covering the~~
 3.28 ~~maintenance and operation, also the nature, location, and character of the construction to~~
 3.29 ~~be used, where telephone, telegraph, electric light, power, or other electric wires of any~~
 3.30 ~~kind, or any natural gas pipelines, cross, or more or less parallel the lines of any railroad,~~
 3.31 ~~or any other similar public service corporation; and, to this end, shall formulate and from~~
 3.32 ~~time to time, issue general rules covering each class of construction, maintenance, and~~
 3.33 ~~operation of such telephone, telegraph, telecommunications, cable, fiber optic, electric~~

4.1 ~~wire, or natural gas pipeline crossing, or paralleling, under the various conditions existing;~~
 4.2 ~~and~~ The department, upon the complaint of any person, railroad, municipal utility,
 4.3 cooperative electric association, telephone company, telecommunications carrier, cable
 4.4 company, fiber optic carrier, or other public utility claiming to be injuriously affected or
 4.5 subjected to hazard by any ~~such~~ crossing or paralleling of the lines of any railroad or other
 4.6 similar public service corporation, constructed or about to be constructed, shall, after a
 4.7 hearing, make such order and prescribe such terms and conditions for the construction,
 4.8 maintenance, and operation of the lines in question as may be just and reasonable.

4.9 (b) The department may, upon request of any municipal utility, electric cooperative
 4.10 association, public utility, telephone company, telecommunications carrier, cable
 4.11 company, or fiber optic carrier determine the just and reasonable charge which a railroad,
 4.12 or owner of an abandoned railroad right-of-way, other than the state or a regional railroad
 4.13 authority, can prescribe for a new or existing crossing of a railroad right-of-way by any
 4.14 telephone, telegraph, telecommunications, cable, fiber optic, electric, or gas line, or new
 4.15 or existing telephone, telegraph, telecommunications, cable, fiber optic, electric, or gas
 4.16 line more or less paralleling a railroad right-of-way, based on the diminution in value
 4.17 caused by the crossing or paralleling of the right-of-way by the telephone, telegraph,
 4.18 telecommunications, cable, fiber optic, electric, or gas line. This section shall not be
 4.19 construed to eliminate the right of a public utility, municipal utility, or electric cooperative
 4.20 association to have any of the foregoing issues determined pursuant to an eminent domain
 4.21 proceeding commenced under chapter 117. Unless the railroad, or owner of an abandoned
 4.22 railroad right-of-way, other than the state or a regional railroad authority, asserts in writing
 4.23 that the proposed crossing or paralleling is a serious threat to the safe operations of the
 4.24 railroad or to the current use of the railroad right-of-way, a crossing can be constructed
 4.25 following filing of the requested action with the department, pending review of the
 4.26 requested action by the department.

4.27 (c) The department shall assess the cost of reviewing the requested action, and of
 4.28 determining a just and reasonable charge, equally among the parties.

4.29 (d) For the purposes of this section, "parallel" or "paralleling" means that the
 4.30 relevant utility facilities run adjacent to and alongside the lines of a railroad for no more
 4.31 than one mile, or another distance agreed to by the parties, before the utility facilities cross
 4.32 the railroad lines, terminate, or exit the railroad right-of-way.

4.33 Sec. 11. Minnesota Statutes 2012, section 237.075, subdivision 1, is amended to read:

4.34 Subdivision 1. **Notice.** Unless the commission otherwise orders, no telephone
 4.35 company shall ~~change~~ increase a rate ~~which has been duly established under this chapter,~~

5.1 for basic services or switched access services except upon 60 days' notice to the customers,
 5.2 the department, and the commission. The notice shall include statements of facts, expert
 5.3 opinions, substantiating documents, and exhibits, supporting the change requested, and
 5.4 state the change proposed to be made in the rates then in force and the time when the
 5.5 modified rates will go into effect. The filing telephone company shall give written notice,
 5.6 as approved by the commission, of the proposed change to the governing body of each
 5.7 municipality and county in the area affected. All proposed changes shall be shown by
 5.8 filing new schedules or shall be plainly indicated upon schedules on file and in force at
 5.9 the time. A telephone company may give notice to its customers by the same means
 5.10 used to bill the customer, including by e-mail or other electronic means, or by any other
 5.11 reasonable means that provides actual notice to the customer. Customer notices for
 5.12 increases of intrastate rates must include as a heading "NOTICE OF PRICE INCREASE."
 5.13 All proposed changes shall be shown on the telephone company's tariff. Any proposed
 5.14 increase to switched access rates shall include an explanation stating how the increase is
 5.15 consistent with federal law. All purchasers of switched access shall be charged the rate
 5.16 listed in the provider's price list and shall pay for switched access at that rate.

5.17 **Sec. 12. [237.077] SCHEDULES; TARIFFS.**

5.18 **Subdivision 1. Filing requirements.** Except as set forth in this section,
 5.19 telecommunications service providers are not required to maintain or file any rate
 5.20 schedule, tariff, contract, or agreement with the commission.

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

5.24 **Subd. 3. Tariff.** (a) Any telecommunications service provider that offers intrastate
 5.25 switched access services shall maintain on file with the commission a tariff containing
 5.26 the terms, conditions, rates, and charges the telecommunications service provider has
 5.27 established for intrastate switched access services.

5.28 (b) Every local exchange carrier that provides basic telecommunications service
 5.29 shall maintain on file with the commission a tariff containing the terms, conditions, rates,
 5.30 and charges for that service.

5.31 (c) Subject to any applicable notice to end users required by this chapter, a telephone
 5.32 company tariff becomes effective 60 days after it is filed with the commission.

5.33 (d) A person who objects to a tariff shall file an objection within 30 days of the filing
 5.34 of the tariff. The person filing the tariff may reply to the objection within five days of
 5.35 the filing of the objection.

6.1 (e) The commission shall review the tariff, the objection, and the reply within 60
 6.2 days of the filing of the tariff and shall issue an order approving the tariff or order that
 6.3 a contested case hearing be conducted under chapter 14.

6.4 Sec. 13. Minnesota Statutes 2012, section 237.081, subdivision 1, is amended to read:

6.5 Subdivision 1. **Commission investigation.** Whenever the commission believes
 6.6 that a service is inadequate or cannot be obtained or that an investigation of any matter
 6.7 relating to any telephone service should for any reason be made, it may on its own motion
 6.8 investigate the service or matter with or without notice, except that the commission shall
 6.9 give notice to a telephone company before it investigates the level of rates for basic or
 6.10 wholesale telecommunications services charged by the company.

6.11 Sec. 14. Minnesota Statutes 2012, section 237.081, subdivision 2, is amended to read:

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

6.16 ~~(b) For an investigation concerning the reasonableness of the rates for noncompetitive~~
 6.17 ~~services of a telephone company whose general revenue requirement is determined under~~
 6.18 ~~section 237.075, the commission shall order the company to initiate a rate proceeding in~~
 6.19 ~~accordance with section 237.075. The commission shall allow the company at least 120~~
 6.20 ~~days after the date of the commission's order to initiate the proceeding.~~

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

6.24 Sec. 15. Minnesota Statutes 2012, section 237.081, subdivision 4, is amended to read:

6.25 Subd. 4. **Establishment of rate and price.** Whenever the commission finds,
 6.26 after a proceeding under subdivision 2, that (1) a service that can be reasonably
 6.27 demanded cannot be obtained, (2) that any rate, toll, tariff, charge, or schedule, or any
 6.28 regulation, measurement, practice, act, or omission affecting or relating to the production,
 6.29 transmission, delivery, or furnishing of telephone service or any service in connection with
 6.30 telephone service, is in any respect ~~unreasonable, insufficient, or unjustly discriminatory~~
 6.31 contrary to the requirements of this chapter, or (3) that any service is inadequate, the
 6.32 commission shall make an order respecting the tariff, regulation, act, omission, practice,

7.1 or service that is just and reasonable and, if applicable, shall establish just and reasonable
7.2 rates and prices for basic or wholesale services.

7.3 Sec. 16. **[237.102] CUSTOMER BILLING.**

7.4 (a) Bills to customers from telecommunications service providers shall be rendered
7.5 regularly, and shall contain an itemized listing of all charges and the period of time
7.6 covered by the billing. Taxes and fees collected and remitted as mandated by law shall be
7.7 separately identified, itemized, and distinguished from the service charges on the bill.

7.8 (b) All bills shall contain an explanation of the charges in plain language. Bills shall
7.9 include a company telephone number the customer may contact with billing questions or
7.10 concerns. Each bill shall also provide the Public Utility Commission's telephone number.

7.11 (c) Charges billed to a customer shall not exceed the price stated in any related
7.12 offers or advertisements as the regular price for the service, including any fractional
7.13 monthly amounts, with the exception of taxes and fees collected and remitted for required
7.14 government programs.

7.15 (d) Any rates, charges, or fees collected by the telecommunications service provider
7.16 that are not required to be remitted by state or federal law and that are not included in the
7.17 telecommunications service provider's price list shall not be charged to the customer,
7.18 unless otherwise approved by the commission.

7.19 (e) Customers shall not be assessed an additional charge or fee to obtain a paper bill.

7.20 Sec. 17. Minnesota Statutes 2012, section 237.12, is amended by adding a subdivision
7.21 to read:

7.22 Subd. 5. **Discontinuance for nonpayment.** (a) Except as otherwise provided in
7.23 an interconnection agreement or contract, in the event an interexchange carrier or a local
7.24 exchange carrier fails to pay full compensation to a local exchange carrier for services
7.25 and a written dispute has not been registered between the companies, the local exchange
7.26 carrier may discontinue accepting traffic from the alleged nonpaying carrier after the local
7.27 exchange carrier provides to the commission, the department, and the nonpaying carrier
7.28 30 days' notice of intent to discontinue service. The notice to the department shall indicate
7.29 whether the discontinuance will result in the disruption of service to end users or others
7.30 and what steps will be taken, if any, to prevent such disruption.

7.31 (b) Any person objecting to the discontinuance shall file an objection with the
7.32 commission within 30 days of notice of intent to disconnect. If an objection is filed,
7.33 the department shall investigate and recommend to the commission whether public
7.34 convenience requires continued service to the other carrier and, if so, the recommended

8.1 compensation, terms, and conditions of the continuance of service between the companies.
8.2 A carrier objecting to the discontinuance must pay all undisputed charges while the
8.3 objection is being considered.

8.4 (c) If no objection is filed within 30 days, the discontinuance shall be deemed
8.5 approved and the local exchange carrier may discontinue service.

8.6 **Sec. 18. [237.131] INTRASTATE CALL ROUTING; CERTAIN PRACTICES**
8.7 **PROHIBITED.**

8.8 (a) Telecommunications service providers shall not participate in the adoption or
8.9 perpetuation of intrastate call routing practices that result in the blocking, restriction,
8.10 or interference with the completion of calls to certain telephone exchanges, for the
8.11 purpose of avoiding the terminating access rates of those exchanges. All contracts,
8.12 agreements, or arrangements with underlying providers to deliver traffic on behalf of the
8.13 telecommunications service provider shall not contain terms that are inconsistent with
8.14 this section.

8.15 (b) A telecommunications service provider shall not knowingly contract with a
8.16 wholesale transport provider that is not registered with the commission.

8.17 (c) For calls that are not completed within ten seconds, the telephone company must
8.18 provide the caller with a message stating the call is being processed. This requirement
8.19 applies regardless of whether a ringtone is used by the originating provider while the
8.20 call is being processed.

8.21 (d) Upon learning a call has failed to terminate, the service provider for the customer,
8.22 whether for the called or calling customer, shall:

8.23 (1) determine the reason for the failure;

8.24 (2) notify the affected called and calling customers; and

8.25 (3) report to the commission or department that the failure occurred and the actions
8.26 taken to correct the cause of the failure.

8.27 (e) A telecommunications service provider shall be liable under this section and is
8.28 subject to section 237.461 for the actions of an underlying provider used to deliver traffic
8.29 on its behalf if:

8.30 (1) the underlying provider is an agent, contractor, or subcontractor of the
8.31 telecommunications service provider, or is employed by the telecommunications service
8.32 provider; and

8.33 (2) the telecommunications service provider knew or should have known of the
8.34 underlying carrier's actions.

9.1 Sec. 19. **[237.132] REGISTRATION OF WHOLESALE TRANSPORT**
9.2 **PROVIDERS.**

9.3 (a) A wholesale transport provider shall file a registration with the commission that
9.4 includes the company name, address, a contact name, and a telephone number that will
9.5 be answered 24 hours each day, seven days a week, to address any failures of calls to
9.6 complete within Minnesota. The contacts provided by each entity should be well-versed
9.7 in the subject matter of call routing and call completion. Wholesale transport providers are
9.8 subject to regulation under this chapter only to the extent required under section 237.131.

9.9 (b) The department shall maintain a contact list of all registered wholesale transport
9.10 service providers on its Web site to enable expeditious resolution of any call routing and
9.11 call completion problems involving wholesale transport providers.

9.12 (c) Wholesale transport providers shall update their registration information when
9.13 changes occur, but no less than annually.

9.14 Sec. 20. **[237.84] CERTIFICATION, REGISTRATION, AND MAPPING.**

9.15 Subdivision 1. **Application for certificate of authority.** Before a
9.16 telecommunications service provider may offer retail or wholesale telecommunications
9.17 services to the public in Minnesota, the telecommunications service provider must receive
9.18 a certificate of authority from the commission. The commission shall issue a certificate of
9.19 authority within 60 days after receipt of a complete application, unless it makes a finding
9.20 that issuance of a certificate is contrary to the public interest. A telecommunications service
9.21 provider seeking a certificate of authority under this chapter shall submit an application on
9.22 a form prescribed by the commission. If a telecommunications service provider's submitted
9.23 application is incomplete, the commissioner may deny the application or suspend the
9.24 60-day period until it finds that a complete application has been filed. The form must
9.25 require the telecommunications service provider to provide the following information:

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

9.29 (2) a certification from the secretary of state authorizing the telecommunications
9.30 service provider to do business in Minnesota;

9.31 (3) the address and telephone number of the telecommunications service provider,
9.32 along with contact information for the person responsible for ongoing communication
9.33 with the commission;

9.34 (4) the legal name, address, and telephone number of the parent company of the
9.35 telecommunications service provider, if any;

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

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

10.5 (7) information demonstrating the financial, managerial, and technical ability of
 10.6 the telecommunications service provider to provide telecommunications service in
 10.7 Minnesota; and

10.8 (8) verification that the telecommunications service provider's 911 plan has been
 10.9 approved.

10.10 Subd. 2. Fees. The commission may collect from the applicant a filing fee not to
 10.11 exceed \$2,000, charged at the time an application is filed under this section.

10.12 **Sec. 21. REVISOR'S INSTRUCTION.**

10.13 The revisor shall make necessary technical cross-reference changes in Minnesota
 10.14 Statutes and Minnesota Rules consistent with the repealer in section 22.

10.15 **Sec. 22. REPEALER.**

10.16 Minnesota Statutes 2012, sections 237.03; 237.068; 237.072; 237.075, subdivisions
 10.17 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; 237.21; 237.22; 237.411; 237.44; 237.45; 237.57;
 10.18 237.59, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, and 10; 237.64, subdivision 2; 237.67;
 10.19 237.75; 237.76; 237.761; 237.762; 237.763; 237.764; 237.765; 237.766; 237.767;
 10.20 237.768; 237.769; 237.770; 237.771; 237.772; 237.773, subdivisions 1, 2, 3, and 4;
 10.21 237.774; 237.775; and 237.80, are repealed.

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.

237.068 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.

237.072 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 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

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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:

(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

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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 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

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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.

237.21 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.

237.411 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.

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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.

237.44 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 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.

237.57 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).

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;

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(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 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:

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(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.

(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.

237.64 REGISTRATION; BOND.

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.

237.67 ANNUAL LEGISLATIVE REPORT.

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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.

237.75 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;
- (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;

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(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.

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

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(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.

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,

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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

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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;

(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.

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(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 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

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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 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

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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.

(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

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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.

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.

237.80 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.