

Section 1. SALE OF TAX-FORFEITED LAND; CARLTON COUNTY.

Notwithstanding Minnesota Statutes, section 282.018, and the public sale, appraisal, and consideration requirements of Minnesota Statutes, chapter 282, Carlton county shall sell and convey certain tax-forfeited land, located in Carlton county and described in this section, to Mr. and Mrs. Russell Maki, Kettle River, Minnesota.

The land described in this section must be sold by private sale for a consideration of \$410, payment of the state deed tax, and payment of actual costs imposed by law or rule to convey real property, in a form approved by the attorney general.

The land to be sold is located in Carlton county and described as the Southeast Quarter of the Southwest Quarter of Section 31, Township 47 North, Range 20 West.

Mr. and Mrs. Maki entered into an agreement to buy the property in 1945. They failed to complete the transaction by payment of the balance due of \$410. They have been farming the property since 1946 and when they recently tried to have a will drafted, discovered that they did not have title to the property.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor May 5, 1989

Signed by the governor May 8, 1989, 2:26 p.m.

CHAPTER 74—H.F.No. 1056

An act relating to utilities; regulating noncompetitive and competitive telephone services; amending Minnesota Statutes 1988, sections 237.07; 237.081; 237.295, subdivisions 1 and 2; 237.57, subdivision 1; 237.58, subdivision 1; 237.59, subdivisions 1, 2, 3, and 6; 237.60, subdivisions 1 and 2; 237.62, subdivisions 1 and 2, and by adding a subdivision; 237.63, subdivision 1, and by adding subdivisions; and 237.64, subdivisions 1 and 2; Laws 1987, chapter 340, section 26; proposing coding for new law in Minnesota Statutes, chapter 237; repealing Minnesota Statutes 1988, sections 237.075, subdivision 1a; and 237.081, subdivision 3.

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

Section 1. Minnesota Statutes 1988, section 237.07, is amended to read:

237.07 **SCHEDULE OF RATES FILED FILING REQUIREMENTS.**

New language is indicated by underline, deletions by ~~strikeout~~.

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

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

Sec. 2. [237.071] SPECIAL PRICING.

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

Sec. 3. [237.076] SETTLEMENTS; PROCEDURES.

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

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

Sec. 4. Minnesota Statutes 1988, section 237.081, is amended to read:

237.081 **SUMMARY INVESTIGATIONS OF INADEQUATE SERVICE.**

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

Subd. 1a. **COMPLAINT INVESTIGATION.** Upon a complaint made against ~~any cooperative telephone association, a~~ telephone company, ~~or a municipal telephone utility~~ by any other provider of telephone service, by the governing body of any a political subdivision, or by no fewer than five percent or 100, whichever is the lesser number, of the subscribers or spouses of subscribers of the particular ~~cooperative telephone association, telephone company, or municipal telephone utility,~~ that any of the rates, tolls, tariffs, charges, or schedules, or any regulation, measurement, practice, act, or omission affecting or relating to the production, transmission, delivery, or furnishing of telephone service or any service in connection ~~therewith~~ with telephone service is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission ~~shall proceed to make an investigation.~~ If the commission finds that all significant issues raised have not been resolved to its satisfaction, it shall order a hearing, after notice to the telephone company, shall investigate the matters raised by the complaint.

Subd. 2. **PROCEEDINGS AFTER INVESTIGATIONS.** (a) If, after making ~~such summary an~~ investigation under subdivision 1 or 1a, the commission becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matters investigated, it shall set a time and place for a hearing. finds that a significant factual issue raised has not been resolved to its satisfaction, the commission shall follow the appropriate procedure prescribed by this subdivision.

(b) For an investigation concerning the reasonableness of the rates for non-competitive services of a telephone company whose general revenue requirement is determined under section 237.075, the commission shall order the company

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

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

Subd. 3. Notice of the time and place for such hearing shall be made to all interested parties by postage paid, first class mail.

Subd. 4. **ESTABLISHMENT OF RATES AND PRICES.** Whenever the commission ~~shall find~~ finds, after a proceeding under subdivision 2, that ~~any~~ (1) a service ~~which~~ that can be reasonably demanded cannot be obtained, or (2) that any of the ~~rates, tolls, tariffs, charges or schedules~~ rate, toll, tariff, charge, or schedule, or any regulation, measurement, practice, act, or omission affecting or relating to the production, transmission, delivery, or furnishing of telephone service or any service in connection ~~therewith~~ with telephone service, is in any respect unreasonable, insufficient, or unjustly discriminatory, or (3) that any service is inadequate, the commission shall make an order respecting the ~~rates, tolls, tariffs~~ tariff, regulation, act, omission, practice, or service that is just and reasonable and, if applicable, shall establish just and reasonable rates and prices.

Subd. 5. **SERVICE; NOTICE.** A copy of ~~such an~~ an order ~~shall~~ issued under this section must be served upon the person against whom it runs or the person's attorney, and notice ~~thereof~~ of the order must be given to the other parties to the proceedings or their attorneys.

Sec. 5. Minnesota Statutes 1988, section 237.295, subdivision 1, is amended to read:

Subdivision 1. **PAYMENT FOR INVESTIGATIONS.** Whenever the department or commission, in a proceeding upon its own motion, on complaint, or upon an application to it, ~~shall deem~~ considers it necessary, in order to carry out the duties imposed on it, to investigate the books, accounts, practices, and activities of, or make appraisals of the property of ~~any~~ a telephone company, or to render ~~any~~ engineering or accounting services to ~~any~~ a telephone company, the telephone company shall pay the expenses reasonably attributable to the investigation, appraisal, or service. The department and commission shall ascertain the expenses, and the department shall render a bill ~~therefor~~ for those expenses to the telephone company, either at the conclusion of the investigation, appraisal, or services, or from time to time during its progress; ~~which~~. The bill shall constitute constitutes notice of the assessment and a demand for payment. The amount of the bills ~~so~~ assessed by the department ~~shall~~ under this subdivision must be paid by the telephone company into the state treasury within 30 days from the date of assessment. ~~The~~ total amount, in ~~any one~~ a calendar year, for which ~~any~~ a telephone company ~~shall~~ may become liable, by reason of costs incurred by the department and commission within that calendar year, ~~shall~~

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may not exceed two-fifths of one percent of the gross jurisdictional operating revenue of the telephone company in the last preceding calendar year. Direct charges may be assessed without regard to this limitation until the gross jurisdictional operating revenue of the telephone company for the preceding calendar year has been reported for the first time. Where, pursuant to ~~under~~ this subdivision, costs are incurred within ~~any a~~ calendar year ~~which that~~ are in excess of two-fifths of one percent of the gross jurisdictional operating revenues, the excess costs ~~shall are~~ not be chargeable as part of the remainder under subdivision 2, but ~~shall must~~ be paid out of the general appropriation of the department.

Sec. 6. Minnesota Statutes 1988, section 237.295, subdivision 2, is amended to read:

Subd. 2. **ASSESSMENT OF COSTS.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of ~~its their~~ expenditures in the performance of ~~its their~~ duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1 or 5. The remainder ~~shall must~~ be assessed by the department to the ~~several~~ telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calendar year. The assessment ~~shall must~~ be paid into the state treasury within 30 days after the bill has been mailed to the ~~several~~ telephone companies; ~~which shall constitute.~~ The bill constitutes notice of the assessment and demand of payment thereof. The total amount ~~which that~~ may be assessed to the telephone companies; under ~~authority~~ of this subdivision; ~~shall may~~ not exceed one-eighth of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the second quarter of each fiscal year ~~shall must~~ be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

Sec. 7. Minnesota Statutes 1988, section 237.57, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** The terms used in ~~sections 237.57 to 237.68~~ this chapter have the meanings given them in this section.

Sec. 8. Minnesota Statutes 1988, section 237.58, subdivision 1, is amended to read:

Subdivision 1. **APPLICABILITY.** This section and sections 237.59; 237.60, ~~and subdivisions 1, 2, and 5; 237.62; and section 18~~ do not apply to a telephone company unless the company notifies the commission in writing of its decision to be subject to all of those sections. The company may not revoke its decision to be subject to those sections before January 1, 1994.

Sec. 9. Minnesota Statutes 1988, section 237.59, subdivision 1, is amended to read:

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Subdivision 1. **EMERGING COMPETITIVE SERVICES.** 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 services video display;
- (10) group access bridge services;
- (11) inter-LATA and intra-LATA message toll service;
- (12) inter-LATA and intra-LATA private line services;
- (13) inter-LATA and intra-LATA wide area telephone service;
- (14) mobile radio services;
- (15) operator-handled intercept services;
- (16) public pay telephone services, excluding charges for access to the central office;
- (17) seminars;
- (18) services not previously offered prior to August 1, 1987;
- (19) ~~services which generate a service that generates~~ an annual revenue equal to or less than the greater of one-tenth of one percent or \$100,000 of a telephone company's annual gross revenues in the year the company elects to be covered by this section;

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(20) special construction of facilities;

(21) studies;

(22) systems for automatic dialing; and

(23) versanet-type service access line involving continuous monitoring and transmission of data from customer's premises to the central office.

Sec. 10. Minnesota Statutes 1988, section 237.59, subdivision 2, is amended to read:

Subd. 2. **PETITION.** A ~~person~~ telephone company, or the commission on its own motion, may petition to have a service of a that telephone company classified as subject to effective competition or emerging competition. The petition must be served on the commission, the department of public service, 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;

(2) an estimate of the company's current market share;

(3) identification of barriers to entry or exit from the market for the service; and

(4) a description of affiliate relationships with any other provider of the service in the company's market.

Sec. 11. Minnesota Statutes 1988, section 237.59, subdivision 3, is amended to read:

Subd. 3. **EXPEDITED PROCEEDING.** A ~~person who files~~ 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 ~~must~~ shall make a final determination within 60 days of the date on which all required information required ~~pursuant to~~ 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 ~~must~~ shall order that a contested case hearing be conducted to evaluate the petition.

Sec. 12. Minnesota Statutes 1988, section 237.59, subdivision 6, is amended to read:

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Subd. 6. **BURDEN OF PROOF.** ~~The person that files the petition under subdivision 2 has the burden of proving that competition exists and that classifying the classification of a service as other than noncompetitive will serve the public interest. 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.~~

Sec. 13. Minnesota Statutes 1988, section 237.60, subdivision 1, is amended to read:

Subdivision 1. **EFFECTIVE COMPETITION.** A company whose service has been determined by the commission to be subject to effective competition may:

(1) decrease the rate for that service effective without notice to its customers or the commission; ~~and may~~

(2) increase the rate for that service effective upon notice to its customers at least 30 days in advance of the increase.

A company whose service is declared subject to effective competition is not subject to the requirements of section 237.07, subdivision 1, for that service.

Sec. 14. Minnesota Statutes 1988, section 237.60, subdivision 2, is amended to read:

Subd. 2. **EMERGING COMPETITION.** (a) ~~A telephone company whose service has been determined to be subject to emerging competition must file a price list with the commission and the department. The price list must contain the rates, tolls, and charges for the service together with the rules, regulations, and classifications used in providing that service. This chapter does not prohibit a telephone company from including limitations on liability as terms or conditions in the price lists.~~

(b) ~~A company may decrease the rate for a service subject to emerging competition that is listed in the price list, effective ten days after filing a new price list with the commission and the department, along with an incremental cost study demonstrating that the proposed price is above incremental cost. The commission shall prevent a proposed price reduction from going into effect if, after receiving a complaint or on its own motion, under section 237.081, the commission finds that the proposed rate is below incremental cost or that the proposed rate is not just and reasonable.~~

(b) A company may increase the rate for a service subject to emerging competition that is listed in the price list effective 30 days after notice is given to affected customers, the commission, and the department. The notice and new price list filing to the commission and the department for a rate increase must include an incremental, ~~or other acceptable~~ cost study as determined by the commission, supporting the increase demonstrating that the proposed price is

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above incremental cost. The department shall investigate an increase ~~or decrease~~ in rates for services subject to emerging competition, and report its findings to the commission within 30 days of the filing. The commission may, within 60 days after the date of the filing, order that the rate increase is interim in nature and subject to refund. If interim rates are not ordered, the rate increase is not refundable. If a rate is subject to refund, the commission, after a contested case hearing or an expedited hearing under section 237.61 if there are no material facts in dispute, order the company to adjust its rates or charges for a service subject to emerging competition if the commission finds that the price charged is excessive. The commission may, must make a final decision regarding the propriety of the rate increase within ten months of the date a the price change went into effect, order was filed. If the commission does not do so, the price adjustments retroactive to the date the change went into effect and order the company to make any necessary refunds to affected customers is deemed approved.

(c) If language describing a rate, term, or condition of service in a price list is changed without substantially altering the application of the price list, the change may take effect upon one-day notice to the commission.

(d) If a term or condition of service in a price list is changed in a way that results in a substantial change in the application of the price list, but the price is not changed, the change in the price list is effective at the same time as a price decrease under paragraph (a).

(e) If a new pricing plan is proposed for a service that is currently offered by a telephone company, the change in the price list is subject to the same schedules governing a price increase under paragraph (b). For purposes of this paragraph, a new pricing plan is a proposal that bundles rate elements for a service, alters the definition of the rate elements for a service, or includes increases for some rate elements and decreases for other rate elements.

(f) A telephone company may offer a new service to its customers ten days after it files a price list and incremental cost study for the service with the department and the commission.

(g) A change in a price list not covered by paragraphs (a) to (f) must be reviewed according to the schedule prescribed for a price increase under paragraph (b).

(h) An incremental cost study required by this section and section 237.62 must be a long-run incremental cost study unless the commission has allowed the telephone company required to do the study to set rates based on a variable cost study. A telephone company may include a petition to file a variable cost study instead of a long-run incremental cost study with its notice of price change or its filing of a new service. The commission shall grant the petition if the company demonstrates that a long-run incremental cost study is burdensome in relation to its annual revenue from the service involved, that the company has a low market share, that the service is no longer being offered to new customers, or if the company shows other good cause. A petition must be accompanied by a variable cost study. If the petition is denied, the company shall withdraw a filing made under this section.

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(i) For purposes of this section and section 237.62, (1) long-run incremental cost means the change in total cost associated with a change in volume of the service, expressed on a per-unit basis, and (2) variable cost means the change in total cost, excluding fixed costs, associated with a change in volume of service, expressed on a per-unit basis.

Sec. 15. Minnesota Statutes 1988, section 237.62, subdivision 1, is amended to read:

Subdivision 1. **FINANCIAL REQUIREMENTS.** ~~Paragraph (a) or (b)~~ This subdivision governs a proceeding initiated under section 237.075 or 237.081 to change the rates for noncompetitive services. Subdivision 1a governs a proceeding under section 237.075 or 237.081 to change the rates for noncompetitive services and for services subject to emerging competition. The company shall elect that rate changes be made in accordance with either ~~paragraph (a) or (b)~~ this subdivision or subdivision 1a, and that election is binding on the commission in all respects.

~~(a) The~~ A company electing to use this subdivision may demonstrate the revenue requirement for its noncompetitive services by providing:

(1) revenues, expenses, and embedded investments directly related to the provision of the noncompetitive services;

(2) a reasonable portion of the net income generated jointly or arising from jointly competitive and noncompetitive services, and net income received by a telephone company as a result of the sale of telephone number listings, charges and advertising for use in white pages, yellow pages, other directory and other related services, must be treated as arising jointly from competitive and noncompetitive services; and

(3) a reasonable portion of the company's total joint and common costs to be attributable to the provision of the noncompetitive services.

~~(b) Alternatively, the company may demonstrate the revenue requirement for its noncompetitive services by providing:~~

~~(1) revenues, expenses, and embedded investments related to all of its services; and~~

~~(2) to the extent that the company's embedded costs for competitive services, and a reasonable portion of the joint and common costs attributable to the competitive services, exceed the revenues produced by those competitive services, the difference must be added to the company's total revenues.~~

For purposes of this subdivision, when a telephone company uses an investment to provide competitive services to end-user customers and another company provides a competing service that requires, in part, the use of a similar investment to provide the telephone company's noncompetitive services or service elements, the telephone company shall treat both investments and related costs as though they are providing noncompetitive services and shall attribute

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revenues to the noncompetitive category using the rates for the noncompetitive service or service elements multiplied by the appropriate current volumes for the telephone company's competitive service instead of determining the investment, associated expenses, and common and joint costs under clauses (1) and (3) to determine the revenue requirement for the noncompetitive category.

Sec. 16. Minnesota Statutes 1988, section 237.62, is amended by adding a subdivision to read:

Subd. 1a. ALTERNATIVE METHOD. (a) A telephone company electing to use this subdivision shall demonstrate the combined revenue requirement for its noncompetitive services and services subject to emerging competition in accordance with paragraphs (b) to (d).

(b) The telephone company shall use the procedures prescribed by subdivision 1 to allocate and remove the cost of providing services that are subject to effective competition, except that those procedures do not apply to central office-based dial switching systems that, by January 1, 1984, have been approved by the commission as obsolete and that are not available to new customers.

(c) Except as provided in paragraph (d), a combined revenue requirement for noncompetitive services and services subject to emerging competition must be determined under section 237.075. Once the revenue requirement has been established, the commission shall determine the telephone company's rates for services subject to emerging competition and noncompetitive services so that the revenue requirement can be met. The telephone company shall provide an embedded direct cost and an incremental cost study for each service subject to emerging competition that generates annual revenues in excess of the greater of one-tenth of one percent or \$100,000 of the company's annual gross revenues for the test-year period. An embedded direct cost is the sum of current expenses and a return of and a return on the current net book investment directly incurred to provide a service.

(d) On the date that a telephone company becomes subject to this section under section 237.58, the company shall begin an accounting of rate changes for services generally offered before January 1, 1988, that are subject to emerging competition. If the net effect of those rate changes is a lower revenue amount than would have been realized had the rates remained unchanged, the combined revenue requirement established under paragraph (c) must be reduced by an amount equal to the difference in revenues. The commission shall, as part of these proceedings, permit the telephone company to increase the prices for services subject to emerging competition to recover the revenue reduction. To determine whether a rate change has resulted in lower or higher revenues from a service subject to emerging competition, the rate in effect when the accounting requirement prescribed by this paragraph became effective must be subtracted from the rate in effect on the date the rate proceeding is commenced. For services priced on an individual basis, the change in rates must be calculated by subtracting the average revenue per unit for the service on the date the accounting requirements of this paragraph became effective from the average revenue

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per unit for the service in the test year used in the rate case. The difference for both individually priced and nonindividually priced services must be multiplied by the number of units sold in the test year used in the rate case. A rate change resulting from a pass-through of cost increases or decreases, approved or reallocated by a government entity, must be excluded from the revenue calculations under this paragraph.

Sec. 17. Minnesota Statutes 1988, section 237.62, subdivision 2, is amended to read:

Subd. 2. **CROSS-SUBSIDIZATION.** A telephone company shall ~~may~~ not subsidize its competitive services from its noncompetitive services through allocations of costs, cost-sharing agreements, or ~~by~~ other means, direct or indirect. When an investment is for both noncompetitive and competitive services, the company shall demonstrate that ~~the benefits received by the noncompetitive customers justify the allocation of costs its proposed by the company.~~ Allocations and cost assignments must be reviewed at least every five years and a report detailing the methods and results must be filed with the department and the commission. An independent telephone company or a municipality or cooperative telephone association is not required to file a report as required by this subdivision provided that its allocations and cost assignments are subject to review upon order of the commission methods of cost recovery between competitive and noncompetitive services are reasonable. If the commission determines that the methods chosen by the company are not ~~satisfactory~~ reasonable, the commission may order changes in the methods used and make necessary ~~prospective~~ adjustments in ~~noncompetitive~~ rates being charged to reflect the changes ~~in cost.~~

Sec. 18. [237.625] INCENTIVE REGULATION.

Subdivision 1. **INCENTIVE PLANS.** (a) A telephone company whose general revenue requirement is determined under section 237.075 may petition the commission for approval of an incentive plan. The incentive plan must apply to the noncompetitive services of a company covered by section 237.62, subdivision 1, and must apply to noncompetitive services and services subject to emerging competition if the company has chosen to be governed by section 237.62, subdivision 1a. The purpose of the plan is to provide an incentive to the company to improve its operating efficiency while maintaining or improving the quality of its service. If a telephone company is able to increase its earnings, the telephone company shall share the increased earnings with its customers to the extent and in the manner set forth in the commission-approved plan. The commission may not approve a plan that does not meet the requirements of this paragraph and paragraphs (b) to (e).

(b) A telephone company shall share increased earnings during the term of the incentive plan with its customers either by giving them credits against bills or by lowering rates. The division of increased earnings between the company and the customers must reflect the degree to which the company has assumed a risk of earning less than its revenue requirement and the degree to which the customers have assumed a risk of rate increases.

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(c) The incentive plan must be in effect for at least two years.

(d) The incentive plan must provide for periodic reporting to the commission to document that the sharing requirements of the plan are being properly implemented. The company's rates and earnings under the plan are not subject to section 237.081, subdivision 2, paragraph (b), except to the extent necessary to enforce the sharing provisions of the incentive plan.

(e) An incentive plan may not permit rate increases except under other provisions in this chapter. The plan may, however, permit the direct pass-through of cost decreases and increases approved or reallocated by a governmental entity, except for changes in intrastate depreciation schedules.

Subd. 2. ADOPTION OF A PLAN. Before acting on a petition for approval of an incentive plan, the commission shall conduct any public meetings it may consider necessary. 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. In addition to public meetings, the commission shall conduct a proceeding under section 237.61 to decide whether to approve the plan. The commission shall issue findings of fact and conclusions concerning the appropriateness of the proposed plan and the terms and conditions of the sharing of increased earnings between the company and its customers. The commission may approve, reject, or modify a proposed plan, but may not order that a modified plan take effect without the agreement of the petitioning telephone company. The commission shall reject a plan if it has substantial reason to believe that existing rates are inappropriate. The commission shall issue its decision on a plan within six months after receiving the petition to approve the plan. If the commission does not act within six months, the plan is deemed withdrawn unless the commission and the petitioning company agree to an extension of the time for commission action.

Sec. 19. Minnesota Statutes 1988, section 237.63, subdivision 1, is amended to read:

Subdivision 1. GENERAL. Notwithstanding A telephone company whose general revenue requirement is determined under section 237.075; may also set or change its rates for noncompetitive services may be set or changed subject to under this section.

Sec. 20. Minnesota Statutes 1988, section 237.63, is amended by adding a subdivision to read:

Subd. 4a. SIGNIFICANT CHANGE IN CONDITION OF SERVICE. If the terms or conditions of service in a tariff are changed in a way that substantially changes the application of the tariff, but the price is not changed, the change in the tariff may take effect according to the schedule governing rate reductions in subdivision 4.

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Sec. 21. Minnesota Statutes 1988, section 237.63, is amended by adding a subdivision to read:

Subd. 4b. NEW SERVICES. A telephone company may offer a new service to its customers ten days after it files a tariff with the department and the commission.

Sec. 22. Minnesota Statutes 1988, section 237.63, is amended by adding a subdivision to read:

Subd. 4c. OTHER CHANGES. A tariff change not covered by subdivisions 1 to 4b and not requiring a review of a telephone company's gross revenues must be reviewed in accordance with section 237.075, subdivisions 1 and 2, except that the commission may order the company to provide whatever notice to potentially affected customers that the commission considers appropriate.

Sec. 23. Minnesota Statutes 1988, section 237.64, subdivision 1, is amended to read:

Subdivision 1. **REGISTRATION.** A person, firm, or corporation seeking to offer a telephone service to the public that is classified as competitive become a telephone company, as defined by section 237.01, subdivision 2, and not required to be certified under section 237.16, shall register with the department and the commission ~~30~~ 90 days before beginning operation in the state. The commission may review the proposed rates and services and the financial conditions of the telephone company and may, under section 237.081, investigate any other matter it considers appropriate to protect the public interest. A telephone company that has been authorized by the commission to provide telephone services in this state prior to August 1, 1987, is not required to register under this subdivision. A person, firm, or corporation seeking to offer a noncompetitive service to the public must obtain authority from the commission under section 237.16.

Sec. 24. Minnesota Statutes 1988, section 237.64, subdivision 2, is amended to read:

Subd. 2. **BOND.** Telephone companies ~~offering services that have been found to be competitive~~ 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.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 25. Laws 1987, chapter 340, section 26, is amended to read:

Sec. 26. **EFFECTIVE DATE.**

Sections 4 to 12 are effective August 1, 1987, and are repealed effective August 1, ~~1992~~ 1994.

Sec. 26. **REPEALER.**

Minnesota Statutes 1988, sections 237.075, subdivision 1a, and 237.081, subdivision 3, are repealed.

Sec. 27. **EFFECTIVE DATE.**

Sections 1 to 26 are effective July 1, 1989. Sections 8 to 18 are repealed, effective August 1, 1994.

Presented to the governor May 5, 1989

Signed by the governor May 8, 1989, 2:28 p.m.

CHAPTER 75—H.F.No. 895

An act relating to state lands; authorizing the commissioner of transportation to convey certain surplus property to Stevens county for other than public purposes; authorizing the county to sell the property for other than public purposes through a public sale.

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

Section 1. **LAND TRANSFER.**

Notwithstanding Minnesota Statutes, sections 161.44, subdivision 1, and 373.01, subdivision 1, the commissioner of transportation may convey and quitclaim to Stevens county for other than public purposes, and Stevens county may sell for other than public purposes, by public sale for a price not less than its appraised value, the following described land, including improvements on the land:

That part of tracts A and B described below:

Tract A:

That part of Lot 18, Garden Lots Addition to Morris, according to the plat thereof on file and of record in the office of the county recorder in and for Stevens county, Minnesota, described as follows: Beginning at the most southerly corner of said lot; thence northeasterly along the easterly boundary of said lot 294.8 feet to a monument; thence northwesterly at right angles to last course for 170 feet; thence southwesterly at right angles to last course for 50

New language is indicated by underline, deletions by ~~strikeout~~.