

Sections 4, 6, 7, 42, 43, 46, 48, and 57 are effective the day following final enactment.

Sections 53 and 54 are effective the day following final enactment and apply to causes of action arising from incidents occurring on or after that date.

Presented to the governor May 27, 1997

Signed by the governor May 30, 1997, 1:15 p.m.

CHAPTER 223—S.F.No. 739

An act relating to telecommunications; providing policies to carry out the state's role in telecommunications regulation; providing for a state policy encouraging high speed telecommunication services and greater capacity for services; providing for a single statewide local access and transport area (LATA); amending Minnesota Statutes 1996, sections 8.33, subdivision 2; 237.12, by adding a subdivision; 237.121; 237.16, subdivision 9; 237.761, subdivisions 4 and 8; 237.762, subdivisions 1, 3, and by adding a subdivision; 237.764, subdivision 1; 237.765; 237.766; and 237.769; proposing coding for new law in Minnesota Statutes, chapter 237.

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

Section 1. Minnesota Statutes 1996, section 8.33, subdivision 2, is amended to read:

Subd. 2. **DUTIES.** The attorney general is responsible for representing and furthering the interests of residential and small business utility consumers through participation in matters before the public utilities commission involving utility rates and adequacy of utility services to residential or small business utility consumers. The attorney general shall expend a reasonable portion of effort among all three kinds of utility services and shall identify and promote the needs of each class of residential and small business consumers with respect to each of the utility services. When participating in telecommunication matters that affect deployment of the infrastructure, the attorney general may apply the goals of:

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

Sec. 2. [237.011] **TELECOMMUNICATIONS GOALS.**

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

- (1) supporting universal service;
- (2) maintaining just and reasonable rates;

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(3) encouraging economically efficient deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission;

(4) encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner;

(5) maintaining or improving quality of service;

(6) promoting customer choice;

(7) ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service; and

(8) encouraging voluntary resolution of issues between and among competing providers and discouraging litigation.

Sec. 3. [237.072] **LIMITATION ON RATE CHANGES.**

(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 180 days after the date of the filing of the petition.

Sec. 4. [237.082] **TELECOMMUNICATION SERVICES; POLICY OF INCREASED SPEED AND SERVICES.**

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

(1) achieving economically efficient investment in:

(i) higher speed telecommunication services; and

(ii) greater capacity for voice, video, and data transmission; and

(2) just and reasonable rates.

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

Sec. 5. Minnesota Statutes 1996, section 237.12, is amended by adding a subdivision to read:

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

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(1) the use of the most efficient telecommunications technology currently available and the least cost network configuration, given the existing location of the incumbent telephone company's wire centers;

(2) forward-looking depreciation rates;

(3) a reasonable allocation of forward-looking joint and common costs;

(4) forward-looking cost of capital; and

(5) Minnesota tax rates, and where applicable, Minnesota facility placement requirements, Minnesota topography, and Minnesota climate.

Sec. 6. Minnesota Statutes 1996, section 237.121, is amended to read:

237.121 PROHIBITED PRACTICES.

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

(1) upon request, fail to disclose in a timely and uniform manner information necessary for the design of equipment and services that will meet the specifications for interconnection;

(2) intentionally impair the speed, quality, or efficiency of services, products, or facilities offered to a consumer under a tariff, contract, or price list;

(3) fail to provide a service, product, or facility to a consumer other than a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission's rules and orders;

(4) refuse to provide a service, product, or facility to a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission's rules and orders;

(5) impose unreasonable or discriminatory restrictions on the resale ~~or shared use~~ of its services ~~or network functions~~, provided that:

(i) it may require that residential service may not be resold as a different class of service; and

(ii) the commission may prohibit resale of services it has approved for provision for not-for-profit entities at rates less than those offered to the general public; or

(6) provide telephone service to a person acting as a telephone company or telecommunications carrier if the commission has ordered the telephone company or telecommunications carrier to discontinue service to that person.

Sec. 7. Minnesota Statutes 1996, section 237.16, subdivision 9, is amended to read:

Subd. 9. **UNIVERSAL SERVICE FUND.** The commission shall establish and require contributions to a universal service fund, to be supported by all providers of telephone services, whether or not they are telephone companies under section 237.01, including, but not limited to, local telephone companies, independent telephone companies, cooperative telephone companies, municipal telephone companies, telecommunications carriers, radio common carriers, personal communication service providers,

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and cellular carriers. Services that should be considered for inclusion as universal include, at a minimum, single-party service with including access, usage and touch-tone capability; line quality capable of carrying facsimile and data transmissions; equal access; emergency services number capability; statewide telecommunications relay service for the hearing-impaired; and blocking of long-distance toll services. The fund must be administered and distributed in accordance with rules adopted by the commission and designed to preserve the availability of universal service throughout the state. Any state universal service fund must be coordinated with any federal universal service fund and be consistent with section 254(b)(1) to (5) of the federal Telecommunications Act of 1996, Public Law Number 104-104. The department shall make recommendations to the legislature by January 1, 1996, regarding a plan for contributions to and expenditures from the universal service fund. In particular, the department shall address the following issues:

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

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

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

Sec. 8. [237.164] UNIVERSAL SERVICE DISCOUNTS FOR SCHOOLS AND LIBRARIES.

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

Sec. 9. Minnesota Statutes 1996, section 237.761, subdivision 4, is amended to read:

Subd. 4. **FLEXIBLY PRICED SERVICES.** (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 are considered approved if no objection is filed or raised by an interested party or the commission within ten days after the filing; and

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

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Sec. 10. Minnesota Statutes 1996, section 237.761, subdivision 8, is amended to read:

Subd. 8. **INVESTMENT COMMITMENTS.** (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; and

(3) a description of the planned deployment of fiber-optic facilities or broad-band capabilities to schools, libraries, technical colleges, hospitals, colleges and universities, and local governments in this state; and

(4) a description of planned investment and deployment of higher speed telecommunications services and increased capacity for voice, video, and data transmission, in both the metropolitan and outstate portions of the company's service territory.

Sec. 11. Minnesota Statutes 1996, section 237.762, subdivision 1, is amended to read:

Subdivision 1. **INITIAL RATES.** ~~As part of its evaluation of an alternative regulation plan, the commission shall determine whether the telephone company's existing service substantially complies with commission rules and if its rates and rate design are appropriate in light of the proposed plan or whether changes should be made before the plan is implemented or phased in during the course of the plan.~~ An alternative regulation plan approved by the commission under this section must provide that the recurring and non-recurring 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.

Sec. 12. Minnesota Statutes 1996, section 237.762, subdivision 3, is amended to read:

Subd. 3. **RATE CHANGES.** (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

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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 three two years to reflect:

(1) substantial financial impacts of government mandates to construct specific telephone infrastructure and increases or decreases in state and federal taxes, if the mandate applies to local telephone companies and the company would not otherwise be compensated through some other manner under the plan; and

(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 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.

Sec. 13. Minnesota Statutes 1996, section 237.762, is amended by adding a subdivision to read:

Subd. 7. **PACKAGED SERVICES.** This section does not prevent a telephone company from packaging any service classified as price regulated or flexibly priced pursuant to section 237.761, subdivisions 2 to 4, with any other service, or engaging in promotional activities concerning such services, so long as: (1) the company also continues to offer these price regulated and flexibly priced services as separate stand-alone services at prices required by section 237.762; 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.

Sec. 14. Minnesota Statutes 1996, section 237.764, subdivision 1, is amended to read:

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.

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(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.

Sec. 15. Minnesota Statutes 1996, section 237.765, is amended to read:

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 and 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

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(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), may shall be paid into a universal service fund or 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.

Sec. 16. Minnesota Statutes 1996, section 237.766, is amended to read:

237.766 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 ~~four~~ three years. Within six months prior to the termination of the plan, the plan must be reviewed by the commission and, with the consent of the company, revised or renewed 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 revised or renewed plan. Any revised or renewed 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 revised or renewed 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.

Sec. 17. Minnesota Statutes 1996, section 237.769, is amended to read:

237.769 UNBUNDLING AND INTERCONNECTION RULES APPLICABLE.

~~Every plan must contain, and the commission shall approve, rates for and procedures under which the telephone company will, on or before the effective date of the plan, permit interconnection with and unbundle its intrastate services and facilities to the same extent and in the same manner as the Federal Communications Commission requires the interconnection and unbundling for interstate purposes for that company. 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.~~

Sec. 18. **[237.775] EXISTING PLANS NOT AFFECTED.**

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

Sec. 19. **STUDY OF GEOGRAPHICALLY DEAVERAGED RATES.**

The commissioner of public service shall convene a working group to study the impacts of geographic deaveraging on wholesale and retail rates and shall report in writing the findings of this study to the legislature by February 1, 1998. Members of the working group shall include representatives of the office of the governor, the department of public

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service, the public utilities commission, and the office of the attorney general, as well as representatives of telephone companies, telecommunications carriers, consumer organizations representing senior citizens, other consumer organizations, and other interested parties. The study must include: (1) consideration of whether geographic deaveraging of wholesale and/or retail rates is appropriate; (2) a description of how the universal service mechanism should operate in conjunction with geographic deaveraging of retail rates, in the event deaveraging were to occur; (3) consideration of the appropriate timing of implementation of wholesale and/or retail rate deaveraging, in the event deaveraging were to occur; and (4) recommendations regarding the state's regulatory role within the deaveraging process, in the event deaveraging were to occur.

Sec. 20. DEPRECIATION TASK FORCE.

The department of public service shall convene a task force of telephone companies, telecommunications carriers, and other interested parties and, by January 1, 1999, submit a report to the legislature on the adequacy of commission-approved depreciation rates and recommendations regarding recovery of depreciation expense.

Sec. 21. EFFECTIVE DATE.

Sections 2, 3, and 5 to 20 are effective on the day following final enactment. Sections 1 and 4 are effective the day following final enactment and apply to all proceedings or matters reconsidered, pending, or commenced on or after that date.

Presented to the governor May 27, 1997

Signed by the governor May 30, 1997, 1:14 p.m.

CHAPTER 224—S.F.No. 1255

An act relating to campaign finance; clarifying limits on contributions to candidates for local elected office; prohibiting solicitation and acceptance of certain contributions during legislative sessions; amending Minnesota Statutes 1996, section 211A.12; proposing coding for new law in Minnesota Statutes, chapter 211A.

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

Section 1. Minnesota Statutes 1996, section 211A.12, is amended to read:

211A.12 CONTRIBUTION LIMITS.

A candidate or a candidate's committee may not accept aggregate contributions made or delivered by an individual or committee in excess of \$300 in an election year for the office sought and \$100 in other years; except that a candidate or a candidate's committee for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of \$500 in an election year for the office sought and \$100 in other years.

The following deliveries are not subject to the bundling limitation in this section:

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