

1 Department of Commerce

2 Adopted Permanent Rules Governing Electronic Funds Transfer Terminals

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ADMINISTRATIVE  
HEARINGS

3 2675.8100 DEFINITIONS.

4 Subpart 1. **Scope.** Terms in parts 2675.8100 to 2675.8190 that are defined in Minnesota  
5 Statutes, sections 47.61 to 47.74, have the meanings given them. For the purpose of  
6 Minnesota Statutes, sections 47.61 to 47.74, and parts 2675.8100 to 2675.8190, the terms  
7 defined in this part have the meanings given them.

8 Subp. 2. **Act.** "Act" means Minnesota Statutes, sections 47.61 to 47.74.

9 Subp. 3. **Card.** "Card" means the access device used to activate a terminal, including a  
10 credit card; or debit card; or stored value card. "Card" does not include an access device  
11 issued by a government agency solely for the purpose of electronic benefit transfer  
12 programs or stored value cards, except that a stored value card that also serves as an  
13 access device for electronic terminal transactions is considered to be a card to the extent  
14 it performs the functions of a credit card or debit card.

15 [For text of subp 4, see M.R.]

16 Subp. 5. **Control.** "Control" means the ownership of greater than 50 percent interest in  
17 the terminal or terminals; or any leasehold interest in the terminal or terminals; or the  
18 power to act as agent or card issuer authorized by those persons having ownership or  
19 leasehold interests in the terminal or terminals for purposes of the act and parts  
20 2675.8100 to 2675.8190. No agency agreement effects transfer of control from an owner  
21 or leasehold interest unless the agreement is in writing and provides for assumption of  
22 all of the responsibilities and requirements of the act and parts 2675.8100 to 2675.8190 by  
23 the agent. If the agent is a financial institution, the agent is not required in the  
24 agreement to assume any responsibilities or requirements under the act or parts  
25 2675.8100 to 2675.8190 which do not apply to terminals directly owned by financial  
26 institutions. If the agent is a national bank, federal savings association, or federal credit  
27 union, parts 2675.8100 to 2675.8190 apply to the extent permitted by federal law.

1 Subp. 6. **Customer.** "Customer" means any person who has established a contractual  
2 relationship with a financial institution whereby that person is authorized to initiate any  
3 of those transactions permitted to be performed under the act at a terminal.

4 Subp. 6a. **Establish and maintain.** "Establish and maintain" means making electronic  
5 financial terminal operations available to customers or card issuers on terms and  
6 conditions provided in the act and parts 2675.8100 to 2675.8190 by reason of having  
7 control over a terminal.

8 Subp. 7. **Operator.** "Operator" means any person who assists in the initiation of  
9 terminal transactions on behalf of a customer. Operator does not include an employee of  
10 a financial institution, financial institution holding company or subsidiary thereof or the  
11 customer.

12 Subp. 8. **Person.** "Person" means any individual, body politic or corporate,  
13 partnerships, or other unincorporated associations.

14 [For text of subps 9 and 10, see M.R.]

15 Subp. 11. **Terminal.** "Terminal" means an electronic financial terminal as defined in  
16 the act and does not include communication systems such as telephones with digital  
17 screens, personal computers, or interactive television possessed by and operated  
18 exclusively by the customer whether or not it is used to accept the disclosures required  
19 by part 2675.8160.

20 [For text of subp 12, see M.R.]

21 Subp. 13. **Unauthorized withdrawal.** "Unauthorized withdrawal" is a withdrawal by  
22 a person other than the customer without actual authority to initiate the withdrawal,  
23 and from which the customer receives no benefit. The term does not include any  
24 withdrawal that is initiated:

25 A. by a person who was furnished with the card by the customer, unless the  
26 customer has notified the financial institution involved that the transfers by that person  
27 are no longer authorized;

1           B. with fraudulent intent by the customer or any person acting in concert with the  
2 customer; or

3           C. by the financial institution or its employee.

4           **2675.8110 AUTHORITY, SCOPE, AND PURPOSE.**

5           Minnesota Statutes, section 47.71, authorizes the commissioner of commerce to  
6 promulgate rules as are reasonably necessary to carry out and make effective the  
7 provisions and purposes of the act. Parts 2675.8100 to 2675.8190 relate to the operation  
8 of electronic funds transfer terminals and the manner and information required in the  
9 submission of applications for authorization, establish minimum technical operation  
10 standards, and require disclosure of information to customers using such terminals.  
11 Parts 2675.8100 to 2675.8190 establish an application procedure and guide to standards  
12 considered reasonable to accomplish the purposes of the act. Further, the act mandates  
13 the promulgation of rules to inform, guide, and protect consumers, retailers, and  
14 financial institutions in the utilization of electronic financial terminal systems. Parts  
15 2675.8100 to 2675.8190 further set out specific requirements concerning the issuance of  
16 cards, disclosures of pertinent required information, and reporting of data relating to  
17 financial transactions initiated at electronic financial terminals.

18           **2675.8120 APPLICATION FOR AUTHORIZATION.**

19           Any person, other than a state or federal savings association, savings bank or credit  
20 union, or state or national bank, seeking approval to establish and maintain a terminal  
21 or terminals at a specific location shall, not less than 45 days before the establishment of  
22 the terminal or terminals, file with the commissioner an application in a form provided  
23 by the commissioner entitled "Electronic Financial Terminal Authorization Application."  
24 Such application shall include the following information:

25           A. name and principal address of the controlling person filing the application;

26           B. the name and principal address of any other person or persons having control  
27 thereof, if other than the applicant;

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1 C. descriptive information, including the number of terminals applied for, the  
2 location of each terminal by street address or other designation (including city and  
3 county);

4 D. whether the terminal will be attended or unattended and, if attended, by whose  
5 employees or agents as operators;

6 E. the transactions to be performed at the terminal;

7 F. schedule of charges to be paid to the provider by those financial institutions  
8 sharing the terminal or terminals;

9 G. a complete description of the physical and technical operation standards  
10 pertaining to the terminal, including information and specifications necessary to enable  
11 a financial institution that is eligible to share the terminal to obtain interface with the  
12 terminal, which description may be limited by the commissioner to the manufacturer,  
13 model number, and type of the terminal after a model of a terminal has been certified by  
14 the commissioner;

15 H. operational information, including the manner in which the terminal is  
16 activated, anticipated hours of use, anticipated date of first use of the terminal following  
17 approval by the commissioner;

18 I. all agreements used or intended to be used relating to the ownership, operation,  
19 and control of the terminal;

20 J. a description of the safeguards to be used to meet the terminal security  
21 requirements of Minnesota Statutes, section 47.68;

22 K. a description of the procedures to be used to meet the customer privacy  
23 requirements of Minnesota Statutes, section 47.69, subdivision 1;

24 L. a description of the procedures to be used to minimize losses due to  
25 unauthorized withdrawals from customer accounts by use of a terminal as required by  
26 Minnesota Statutes, section 47.69, subdivision 3, including procedures:

1 (1) for the use of a personal identification code as a means of verification of the  
2 authenticity of transactions to be completed at a terminal; and

3 (2) that prevent the personal identification code from being implemented or  
4 made available to the customer until the financial institution issuing the card has  
5 received the customer's signed contract or the card has been validated according to the  
6 procedures for issuance of access devices in Code of Federal Regulations, title 12, part  
7 205.5, Electronic Fund Transfers;

8 M. evidence of the bond or other means adopted to comply with Minnesota  
9 Statutes, section 47.64, subdivision 5; and

10 N. certification under oath by the applicant that all requirements of the act and of  
11 parts 2675.8100 to 2675.8190 pertaining to the provider of a terminal shall be met and  
12 shall be observed.

13 **2675.8130 NOTICE TO COMMISSIONER.**

14 Notice to commissioner:

15 A. The commissioner shall be given written notice by the applicant not less than 30  
16 days prior to the change of control or change of the operator of any terminal or  
17 terminals. For purposes of this item, "operator" does not include individual employees  
18 of a provider or retailer.

19 B. The commissioner shall be given written notice by the applicant of the  
20 termination of terminal operations at the location authorized not more than ten days  
21 after termination of all regulated activity.

22 C. The commissioner shall be given written notice by the applicant within 15 days  
23 following the date on which the applicant relocated an existing terminal less than three  
24 miles from its prior location.

25 **2675.8160 CUSTOMER DISCLOSURE REQUIREMENTS.**

1 Subpart 1. **Disclosure information.** Pursuant to Minnesota Statutes, section 47.69, the  
2 following information shall be disclosed in writing or by electronic communications  
3 agreed to by the customer and by the card issuer to its customer at the time the card is  
4 issued or in the event cards meeting the requirements of the act and parts 2675.8100 to  
5 2675.8190 are outstanding (this disclosure shall be made before the customer is allowed  
6 to use a terminal):

7 [For text of items A to H, see M.R.]

8 I. a statement that the financial institution shall be liable for all unauthorized  
9 withdrawals unless the unauthorized withdrawal was due to the loss or theft of the  
10 customer machine readable card, in which case the customer shall be liable, subject to a  
11 maximum liability of \$50, for those unauthorized withdrawals made prior to the time  
12 the financial institution is notified of the loss or theft. The limitation on liability is  
13 effective only if the card issuer is notified of unauthorized charges contained in a bill  
14 within 60 days of receipt of the bill by the person in whose name the card is issued;

15 [For text of items J and K, see M.R.]

16 Subp. 2. **Type sizes.** All information required to be disclosed by subpart 1 shall be  
17 printed or displayed in not less than eight-point type, .075 inch computer type, or elite  
18 size typewritten characters.

19 Subp. 3. **Listing.** A directory listing as permitted under the act shall be made  
20 available by the applicant at the location of the terminal identifying the financial  
21 institutions using its services.

22 **2675.8180 ADVERTISING, EXCEPTIONS.**

23 For purposes of Minnesota Statutes, section 47.67, notices on the site of a terminal  
24 intended to inform the customer of the operational characteristics, source of assistance  
25 or service, or fees or charges relating specifically to the use of the terminal are not  
26 considered prohibited advertising.

1     **2675.8190 OTHER PERMISSIBLE ACTIVITIES, ELECTRONIC BENEFITS**  
2     **TRANSFER, CONSUMER CONVENIENCE SERVICES.**

3     The limitation on the financial transactions authorized to be performed at a terminal  
4     does not prohibit using the terminal's capability to:

5         A. dispense funds authorized and initiated by a government agency solely for the  
6     purpose of electronic benefit transfer purposes; or

7         B. deliver other consumer convenience services. These consumer convenience  
8     services include, but are not limited to, services that affect the payment for and dispense  
9     postage stamps, tickets, coupons, phone cards, or other media under agreements with  
10    affiliated or nonaffiliated businesses. ~~In determining the suitability of consumer~~  
11    ~~convenience services, consideration shall be given to other applicable law, rule, or the~~  
12    ~~effect on the safety and soundness of the terminal provider where a financial institution~~  
13    ~~is under the supervision of the commissioner.~~

14    **REPEALER.** Minnesota Rules, parts 2675.8140; and 2675.8150, are repealed.