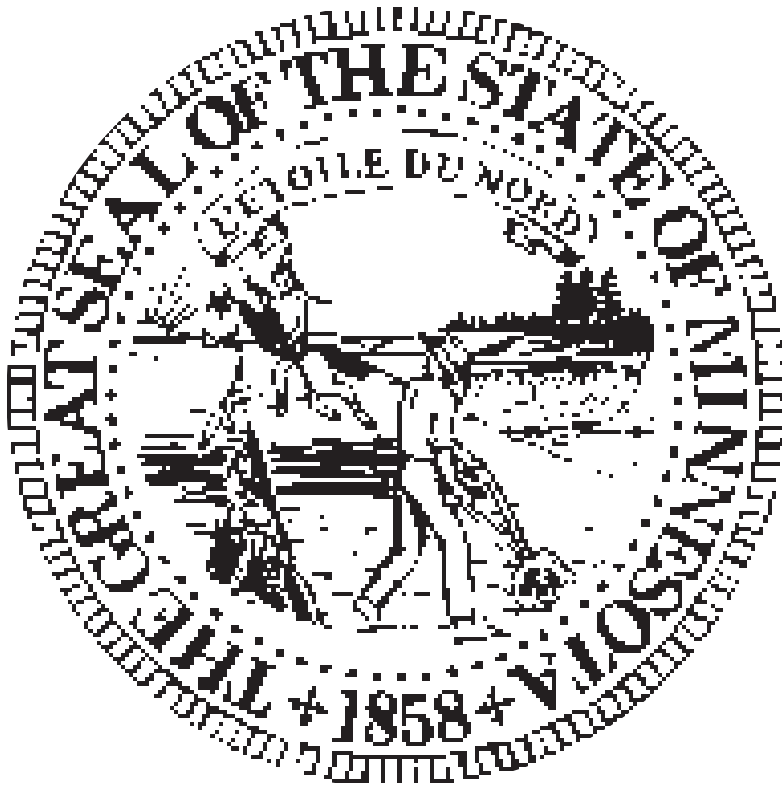


The Minnesota

State Register

Rules and Official Notices Edition



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The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, professional-technical-consulting contracts, non-state bids and public contracts and grants.

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Vol. 22 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
# 11	Monday 15 September	Friday 29 August	Monday 8 September
# 12	Monday 22 September	Monday 8 September	Monday 15 September
# 13	Monday 29 September	Monday 15 September	Monday 22 September
# 14	Monday 6 October	Monday 22 September	Monday 29 September

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Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1995 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Proposed Rules

Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Public Utilities Commission

Proposed Permanent Rules Relating to Telephone Service Provided in Areas Served by Local Telephone Companies with Fewer than 50,000 Subscribers

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received

Proposed Adoption of Rules Governing the Competitive Provision of Local Telephone Service in Areas Served by Local Telephone Companies With Less Than 50,000 Subscribers, *Minnesota Rules* Chapter 7811, and Proposed Amendments to Rules Governing Local Telephone Competition, *Minnesota Rules* Chapter 7812

Introduction. The Public Utilities Commission intends to adopt a rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28 in rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by October 15, 1997, a public hearing will be held at the Public Utilities Commission large hearing room, 121 Seventh Place East, Suite 350, St. Paul, Minnesota, starting at 9:30 a.m. on October 27, 1997. To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after October 15, 1997 and before October 27, 1997.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Eric Witte, staff attorney
Minnesota Public Utilities Commission
121 Seventh Place East
Suite 350, St. Paul, MN 55101-2147
612/296-7814 (voice)
612/297-7073 (fax)
612/297-1200 (TTY)
eric@pucgate.puc.state.mn.us

Subject of Rule and Statutory Authority. The proposed rule is about the competitive provision of local telephone service in areas served by local telephone companies with fewer than 50,000 subscribers. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 237.10, 237.16 and 237.71. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

While the Commission invites everyone's participation in this rulemaking, the Commission especially encourages participation from people who have an interest in the following questions:

1. Should the rules direct a competitive local telephone company ("CLEC") to offer service throughout the service area of the incumbent local telephone company ("LEC"), as provided in parts 7811.0200, .0300 and .0600?
2. If the rules direct a CLEC to offer service throughout the LEC's service area, should the rules provide an exception for a CLEC that provides service solely via its own facilities, without reselling the LEC's services or buying the LEC's unbundled network elements, as provided in parts 7811.0200 and 7811.0525?
3. When the Commission grants a CLEC permission to serve an area, how much time should the CLEC have to provide service throughout the area, as provided in part 7811.0200?
4. Should the rules direct a CLEC to advertise the availability and price of basic services throughout its service area, as provided in part 7811.0200?
5. Should, and may, the Commission specify the quality of service that a LEC must provide to an interconnecting CLEC, as provided in part 7811.0700, even if that quality exceeds the level that the LEC provides to its own customers?
6. Should, and may, the Commission postpone the beginning of the nine-month interconnection proceeding between a LEC and a CLEC as prescribed in the Telecommunications Act of 1996 until after the Commission determines whether an LEC is exempt from the need to engage in the proceeding, as provided at parts 7811.1500 - .1700?
7. Should, and may, the Commission adopt the proposed CLEC regulations at 7812.2200?

Comments. You have until 4:30 p.m. on October 15, 1997, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on October 15, 1997. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Accommodation. If you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rule may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for October 27, 1997, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person after October 15, 1997, to find out whether the hearing will be held.

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Proposed Rules

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. An Administrative Law Judge is assigned to conduct the hearing. The judge can be reached at:

Richard C. Luis
Office of Administrative Hearings
100 Washington Square, Suite 1700
100 Washington Avenue South
Minneapolis, Minnesota 55401-2138
612/349-2542
612/349-2665 (fax)

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rule. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or response period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may also be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to:

The Ethical Practices Board
Centennial Building, First Floor South
658 Cedar Street
St. Paul, Minnesota 55155
612/296-5148
800/657-3889

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After the Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rule. You may ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rule and files it with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

Order. I direct that the rulemaking hearing be held at the date, time, and location listed above.

Burl Haar,
Executive Secretary

7811.0050 APPLICABILITY.

This chapter applies to the provision of telecommunications service in any area served by a local exchange carrier that:

- A. currently has fewer than 50,000 subscribers; and
- B. the commission certified to provide local telephone services before January 1, 1998.

7811.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Act or federal act.** “Act” or “federal act” means the federal Telecommunications Act of 1996, Public Law No. 104-104, codified in *United States Code*, title 47, sections 153 to 614.

Subp. 2a. **Advertise or advertising.** “Advertise” or “advertising” means advertise or advertising the availability of services listed in *Code of Federal Regulations*, title 47, section 54.101, paragraph (a), and the charges for those services, throughout the relevant area using media of general distribution consistent with *Code of Federal Regulations*, title 47, section 54.201.

Subp. 3. **Alternative regulation plan or AFOR.** “Alternative regulation plan” or “AFOR” means an alternative to rate-of-return regulation of a local exchange carrier adopted pursuant to *Minnesota Statutes*, sections 237.76 to 237.774.

Subp. 4. **Applicant.** “Applicant” means a person filing a petition for certification to provide telecommunications services in Minnesota under parts 7811.0200 to 7811.0525.

Subp. 5. **Automatic location identification or ALI.** “Automatic local identification” or “ALI” means the automatic display, on equipment at the public safety answering point, of the telephone, including nonlisted and nonpublished telephone numbers and addresses, and other information about the caller’s location.

Subp. 6. **ALI database provider.** “ALI database provider” means any person who provides automatic location identification to the basic emergency services provider and the governing body for a specific geographic area.

Subp. 7. **Automatic number identification or ANI.** “Automatic number identification” or “ANI” means the process used on customer-dialed calls to automatically identify the calling station.

Subp. 8. **Basic local service.** “Basic local service” means the services required under part 7811.0600 and any other services or terms determined by the commission to be integral to the basic communications, health, privacy, or safety needs of customers.

Subp. 8a. **Bona fide request.** “Bona fide request” means a request for interconnection, services, or network elements within the meaning of *United States Code*, title 47, section 251, subsection (f), paragraph (1), subparagraph (A), that fulfills the requirements of part 7811.2000.

Subp. 9. **Central office.** “Central office” means a facility in a telecommunications system that provides service to the general public where the telephone lines of subscribers are joined to switching equipment that redirects calls to called parties or other central offices, or to the interexchange facilities of a carrier.

Subp. 10. **Certificate of authority or certificate.** “Certificate of authority” or “certificate” means a commission order authorizing the provision of telecommunications service under this chapter.

Subp. 11. **Commission.** “Commission” means the Minnesota Public Utilities Commission.

Subp. 12. **Competitive local exchange carrier or CLEC.** “Competitive local exchange carrier” or “CLEC” means:

- A. a telecommunications carrier that is certified by the commission to provide local service; or
- B. a telephone company to the extent it provides local service in an exchange area for which neither the company nor any of its predecessors was certified on August 1, 1995.

This subpart does not exempt a telephone company under *Minnesota Statutes*, section 237.01, subdivision 2, from the applicable requirements of *Minnesota Statutes*, chapter 237, including rate of return regulation or earnings investigations under *Minnesota Statutes*, section 237.075 or 237.081, and depreciation requirements under *Minnesota Statutes*, section 237.22.

Subp. 13. **Customer.** “Customer” means a person who has contracted with a local service provider for retail telecommunications service and has been billed by or on behalf of that provider for that service in the person’s name or in the name of an agent or representative designated by the customer.

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Proposed Rules

Subp. 14. **Department.** “Department” means the Minnesota Department of Public Service.

Subp. 15. **Eligible telecommunications carrier or ETC.** “Eligible telecommunications carrier” or “ETC” means a local service provider designated by the commission as eligible to receive federal universal service support pursuant to the federal Telecommunications Act of 1996, at *United States Code*, title 47, section 254, based on a determination by the commission that the local service provider, at a minimum, meets the requirements of items A and B, throughout the applicable universal service area.

A. The local service provider offers the services identified by the Federal Communications Commission as eligible for support by federal universal service support mechanisms under the federal Telecommunications Act of 1996, at *United States Code*, title 47, section 254, using its own facilities or a combination of its own facilities and either the unbundled network elements of a local exchange carrier or resale of another carrier’s services.

B. The local service provider advertises the availability of the services referenced in item A and the charges for those services using media of general distribution.

Subp. 16. **Emergency telephone service or 911.** “Emergency telephone service” or “911” means a telephone system using the three-digit number 911 to report police, fire, medical, or other emergency situations.

Subp. 17. **Enhanced 911 or E 911.** “Enhanced 911” or “E 911” means an emergency telephone service that includes automatic number identification and automatic location identification to facilitate public safety response.

Subp. 18. **End-user.** “End-user” means a person requesting, receiving, or using telecommunications service on a retail basis, regardless of whether that person is a customer.

Subp. 19. **Exchange area.** “Exchange area” means a geographic unit established by a local service provider and identified in the local service provider’s tariff on file with the commission. It may consist of one or more central offices or wire centers together with associated facilities used to furnish telecommunications services in that area.

Subp. 20. **Extended area service or EAS.** “Extended area service” or “EAS” means interexchange calling for which a message toll charge is not assessed.

Subp. 21. **Facilities.** “Facilities” means the plant and equipment of a telecommunications service provider. This includes, but is not limited to, a telecommunications service provider’s network facilities.

Subp. 22. **Facilities-based carrier.** “Facilities-based carrier” means a local service provider that relies on its own network facilities, in whole or in part, for providing local service.

Subp. 23. **Facilities-based service.** “Facilities-based service” means service offerings provided, in whole or in part, through the telecommunications service provider’s own network facilities.

Subp. 24. **FCC.** “FCC” means the Federal Communications Commission.

Subp. 25. **FCC interconnection rules.** “FCC interconnection rules” means the rules adopted by the Federal Communications Commission pursuant to the federal Telecommunications Act of 1996, *United States Code*, title 47, section 251, subsection (d), and codified at *Code of Federal Regulations*, title 47, sections 51.1 to 51.809.

Subp. 26. **Interexchange service.** “Interexchange service” means telecommunications service between exchanges as defined in a local exchange service provider’s tariff.

Subp. 27. **Interexchange trunks.** “Interexchange trunks” means transmission facilities used to transport telecommunications traffic between exchanges or central offices.

Subp. 28. **Local calling area.** “Local calling area” means the area within which calls originate and terminate without a toll charge.

Subp. 29. **Local exchange carrier or LEC.** “Local exchange carrier” or “LEC” means a telephone company that is authorized to provide local telephone service in Minnesota under *Minnesota Statutes* 1994, section 237.16, subdivision 2.

Subp. 30. **Local loop.** “Local loop” means the transmission path capable of transporting analog or digital signals from a network interface at a customer’s premises to a central office switching device, distribution frame, or similar demarcation point.

Subp. 31. **Local niche service.** “Local niche service” refers to point-to-point connections between end-user locations within a service area and any telecommunications services under the commission’s jurisdiction that do not fall within the definition of local service or the definition of interexchange service.

Subp. 32. **Local niche service provider.** “Local niche service provider” means a telecommunications carrier that provides local niche service pursuant to a certificate of authority granted by the commission.

Subp. 33. **Local service.** “Local service” means dial tone, access to the public switched network, and any related services provided in conjunction with dial tone and access, including services that may be required under part 7811.0600. Local service does not include local niche service.

Subp. 34. **Local service provider or LSP.** “Local service provider” or “LSP” means a telephone company or telecommunications carrier providing local service in Minnesota pursuant to a certificate of authority granted by the commission. Local service provider includes both local exchange carriers and competitive local exchange carriers.

Subp. 35. **Network element.** “Network element” means a functional capability of a network, disaggregated from other network capabilities and made available to other carriers and end-users separately from all other network capabilities. Network elements include, but are not limited to, the local loop, switching functions, ports, and trunks.

Subp. 36. **Network facilities.** “Network facilities” means a telecommunications service provider’s facilities other than those used exclusively by a reseller to provide resale service.

Subp. 37. **Number portability.** “Number portability” means the ability of customers to retain their existing telephone numbers, consistent with the requirements established by the Federal Communications Commission, notwithstanding changes in location of service, type of service, or local service provider.

Subp. 38. **Office of Attorney General-Residential Utilities Division or OAG-RUD.** “Office of Attorney General-Residential Utilities Division” or OAG-RUD” refers to the Residential and Small Business Utilities Division of the Minnesota Attorney General’s Office.

Subp. 39. **Person.** “Person” means an individual; a firm, company, limited liability company, partnership, limited liability partnership, corporation, cooperative, and any other commercial or business entity, however organized; any form of municipality including a county, statutory or home rule charter city, and town; and any other political subdivision or agency of the state including, but not limited to, a metropolitan council or commission, school district, joint powers authority, port authority, special service district, regional development commission, and their agencies, as well as any combination of them.

Subp. 40. **Port.** “Port” means a mechanism allowing access to switching functions, including dial tone generation, origination, and termination of local and long-distance calls.

Subp. 41. **Public safety answering point or PSAP.** “Public safety answering point” or “PSAP” means a facility equipped and staffed to receive and direct the disposition of 911 calls from the basic emergency service provider.

Subp. 41a. **Reference date.** “Reference date” means the later of the following three dates:

- A. the date of the commission order granting the applicant’s certificate of authority;
- B. the date of the commission order under part 7811.1100, approving the necessary agreements resulting from the negotiations that provided the basis under part 7811.0200, subpart 3, item A, for granting the certificate; or
- C. the effective date of this subpart.

Subp. 42. **Resale service.** “Resale service” refers to service that is purchased on a wholesale basis from a local service provider and then resold on a retail basis to end-users.

Subp. 43. **Reseller.** “Reseller” means a local service provider that provides local service to end-users without using its own network facilities, or the unbundled network elements of a local exchange carrier.

Subp. 43a. **Rural exemption.** “Rural exemption” means the exemption from the obligations of *United States Code*, title 47, section 251, subsection (c), granted to a rural telephone company pursuant to *United States Code*, title 47, section 251, subsection (f), paragraph (1).

Subp. 43b. **Rural telephone company.** “Rural telephone company” has the meaning given in *United States Code*, title 47, section 153, paragraph (37).

Subp. 44. **Service area.** “Service area” means the geographic area in which a local service provider offers local service pursuant to its certificate of authority under part 7811.0200.

Subp. 44a. **Small local exchange carrier or SLEC.** “Small local exchange carrier” or “SLEC” means a telephone company with fewer than 50,000 subscribers that is authorized to provide local telephone service in Minnesota pursuant to *Minnesota Statutes* 1994, section 237.16, subdivision 2.

Subp. 44b. **Study area.** “Study area” means the area designated for a particular local exchange carrier by the FCC.

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Proposed Rules

Subp. 45. Telecommunications. “Telecommunications” means any transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

Subp. 46. Telecommunications carrier. “Telecommunications carrier” means a person, firm, association, or corporation as defined in *Minnesota Statutes*, section 237.01, subdivision 6.

Subp. 47. Telecommunications service. “Telecommunications service” means the offering of telecommunications under the commission’s jurisdiction for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Subp. 48. Telecommunications service provider. “Telecommunications service provider” means any provider of telecommunications service.

Subp. 49. Telephone company. “Telephone company” means a person, firm, association, or other entity, as defined in *Minnesota Statutes*, section 237.01, subdivision 2.

Subp. 50. Total service long-run incremental cost or TSLRIC. “Total service long-run incremental cost” or “TSLRIC” has the meaning given in *Minnesota Statutes*, section 237.772, subdivision 1.

Subp. 51. Universal service area. “Universal service area” means the local exchange carrier’s study area or any other area designated jointly by the commission and the FCC pursuant to *Code of Federal Regulations*, title 47, section 54.203, paragraphs (c) and (d).

7811.0150 APPLICABILITY OF RULES OF PRACTICE AND PROCEDURE.

Proceedings under this chapter must be conducted according to the commission’s rules of practice and procedure, parts 7829.0100 to 7829.1200 and 7829.2600 to 7829.3200, to the extent those parts are consistent with the requirements of this chapter.

7811.0200 GENERAL CERTIFICATION REQUIREMENTS.

Subpart 1. Scope. No person may provide telecommunications service in areas served by LECs with fewer than 50,000 subscribers in Minnesota without first obtaining a certificate under this part and parts 7811.0300 to 7811.0600, except to the extent the person is providing telephone service under a certificate issued by the commission before the effective date of this chapter.

Subp. 2. Certification categories. A person may seek certification in any of the following five categories:

- A. local facilities-based service;
- B. local resale service;
- C. interexchange service;
- D. local niche service; or
- E. local self-provisioned service.

A certificate to provide local facilities-based service authorizes the provision of all forms of local service, interexchange service, and local niche service in Minnesota. A certificate to provide local resale service only authorizes the provision of local resale service. A certificate to provide interexchange service only authorizes the provision of interexchange service. A certificate to provide local niche service only authorizes the provision of local niche service. A certificate to provide local self-provisioned service authorizes all forms of local service, interexchange service, and local niche service within a LEC’s service area, but only to the extent that the provider does not resell the LEC’s services or purchase the LEC’s network elements. An applicant may request certification in multiple categories in a single petition.

Subp. 3. Limitations on local service certification/intent to provide service. Except as provided in subpart 4a, an applicant may obtain certification to provide local service for a geographic area only if:

A. the applicant has started any necessary negotiations for resale, the purchase of network elements, or interconnection under section 252 of the federal act with the local exchange carrier (LEC) currently serving the area; and

B. the applicant plans to comply with subpart 4.

A certificate for local service obtained under part 7811.0300 or 7811.0350 applies only to the service area designated in the petition within the limits established in this subpart. The service area may be expanded under part 7811.0300, subpart 5, or 7811.0350, subpart 5.

Subp. 3a. Reporting service area status. Each local service provider (LSP) shall report to the commission six months before each deadline identified in subpart 4, items B and C, or subpart 4a, item B, regarding the extent to which it is offering local service in its service area. The report must indicate which portions of the LSP’s service area, if any, remain nonoperational and delineate the LSP’s projected timetable for offering local service throughout the entire area as required in subpart 4 or 4a.

Subp. 4. Service obligations. The local service provider (LSP) certified under part 7811.0300 or 7811.0350 has the service obligations listed in items A to C:

A. No LSP shall offer a telecommunications service within a telephone exchange area without contemporaneously offering basic local service and advertising throughout that exchange area, and notifying the commission that it has begun offering service throughout the exchange area.

B. If the LSP provides a telecommunications service within a LEC's service area, then within 24 months of the reference date the LSP shall offer basic local service and advertise throughout the portion of the LEC's service area contiguous with the area where the LSP provides service.

C. The LSP shall offer basic local service and advertise throughout the LEC's service area within 48 months of the reference date.

Failure to offer basic local service throughout the entire service area as required in this subpart will result in the commission taking appropriate action under *Minnesota Statutes*, chapter 237, unless the LSP demonstrates to the satisfaction of the commission, under subpart 5, that its failure to offer basic local service throughout the entire service area results from factors beyond the local service provider's control.

Subp. 4a. Local self-provisioned service. Notwithstanding subpart 3, an applicant for certification to provide local self-provisioned service may obtain certification to provide local service for a geographic area if:

A. the applicant has started any necessary negotiations for interconnection under section 252 of the federal act with the LEC currently serving the area; and

B. the applicant plans to offer basic local service throughout the area without reselling the LEC's services or purchasing the LEC's network elements, within 36 months after the date of the applicant's petition.

A certificate for local service obtained under part 7811.0525 applies only to the service area designated in the petition within the limits established in this subpart. The service area may be expanded under part 7811.0525, subpart 5.

Unless a local self-provisioned service provider demonstrates to the satisfaction of the commission, under subpart 5, that its failure to offer basic local service throughout its entire service area within 36 months of the reference date is the result of factors beyond the LSP's control, the commission shall revoke the LSP's certificate with respect to those areas in which the LSP is not offering basic local service.

Subp. 5. Show-cause proceeding to justify failure to serve entire area. An LSP shall file a petition with the commission to justify anticipated failure to offer basic local service as required under this part. A petition must be filed at least 90 days before the applicable deadline under subpart 4 or 4a. The petition must include the basis for the local service provider's failure to meet the deadline and an alternative date by which the LSP expects to begin offering service in the areas for which it will not meet the deadline.

Subp. 6. Required notification. Petitions for certification under this chapter must be served on the department, the OAG-RUD, the Department of Administration, persons certified to provide telecommunications service within the petitioner's designated service area, and the city clerk, or other official authorized to receive service or notice on behalf of the municipality, of all municipalities within the petitioner's designated service area.

Subp. 7. Comment periods. Comments on a petition must be filed and served within 45 days after the petition is filed. Responsive comments must be filed and served within 20 days after the deadline for initial comments.

Subp. 8. Factual disputes. If the petition raises contested issues of material fact, the commission shall refer the matter to the Office of Administrative Hearings for contested case proceedings or conduct an expedited proceeding under *Minnesota Statutes*, section 237.61, if permitted under the commission's rules of practice and procedure under part 7829.1200, item B or C.

7811.0300 LOCAL FACILITIES-BASED SERVICE CERTIFICATION.

Subpart 1. Scope of certificate. A certificate to provide local facilities-based service authorizes the provision of telecommunications services in Minnesota within the area identified in the applicant's petition. This includes authority to provide local service through the resale of a local exchange carrier's services, the purchase and recombination of a local exchange carrier's network elements or the use of the local service provider's own facilities.

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Proposed Rules

Subp. 2. Filing requirements. A petition for authority to provide local facilities-based service must include the following information:

A. the applicant's full legal name and address, including the address of the applicant's place of business; if a corporation, the names, addresses, telephone numbers, and business experience of its officers; if a partnership or limited liability partnership, the names, addresses, telephone numbers, and business experience of persons authorized to bind the partnership; or, if a limited liability company, the names, addresses, and telephone numbers of its managers;

B. a description of the applicant's organizational structure, including documentation identifying the petitioner's legal status, for example, sole proprietorship, partnership, limited liability partnership, company, limited liability company, corporation, and so forth; a copy of its articles of incorporation; and, a list of shareholders, partners, or members owning ten percent or more of the interest in the business;

C. a list of the applicant's affiliates, subsidiaries, and parent organizations, if any;

D. the nature of the applicant's business, including a list of the services it provides;

E. a description of the applicant's business history, including:

(1) the date the business was first organized, the dates of subsequent reorganizations, and the date the applicant started providing telephone or other telecommunications services; and

(2) the applicant's experience providing telephone company services or telecommunications services in Minnesota and other jurisdictions, including the types of services provided, the dates and nature of state or federal authorization to provide those services, the length of time it has provided those services, and pending or completed criminal, civil, or administrative action taken against the applicant by a state or federal authority, including any settlements, in connection with the applicant's provision of telephone company services or telecommunications services;

F. for the most recent fiscal year, a financial statement of the applicant, consisting of a balance sheet, an income statement, notes to the financial statement, and, if available, an annual report;

G. a list and description of the types of services the applicant seeks authority to offer:

(1) including the classes of customers the applicant intends to serve;

(2) indicating the extent to which it intends to provide service through use of its own facilities, the purchase of unbundled network elements, or resale;

(3) identifying the types of services it seeks authority to provide by reference to the general nature of the service, for example, voice, custom calling, signaling, information, data, and video; and

(4) listing the technology that will be used to deliver the service, for example, fiber-optic cable, digital switches, or radio;

H. a proposed price list or tariff setting forth the rates, terms, and conditions of each service offering, unless the applicant is seeking a conditional certificate under subpart 4 and has not yet developed the information listed in this item;

I. a service area map providing the information required under part 7810.0500, subpart 2, and narrative description of the area for which the applicant is seeking certification, except that if the applicant does not have the necessary agreements or tariffs to serve the entire area for which certification is sought, a map providing the information required under part 7810.0500, subpart 2, and a narrative delineating specifically those areas in which the applicant is currently prepared to provide service;

J. the date by which the applicant expects to offer local service to the entire service area for which the applicant is seeking certification, including the applicant's estimated timetable for providing at least some of its services through use of its own network facilities;

K. a description of the applicant's policies, personnel, and equipment or arrangements for customer service and equipment maintenance, including information demonstrating the applicant's ability to respond to customer complaints and inquiries promptly and to perform maintenance necessary to ensure compliance with the quality requirements set forth in the commission's rules;

L. a copy of the applicant's certificate to conduct business from the Minnesota Secretary of State;

M. a description of the applicant's facilities and the location or proposed location of those facilities; and

N. other information needed to demonstrate that the applicant has the managerial, technical, and financial ability to provide the services it intends to offer consistent with the requirements of this chapter and applicable law.

Subp. 3. Decision criteria. A certificate to provide local facilities-based service must not be granted unless the applicant establishes that it has the financial, technical, and managerial capability to provide the services described in its petition consistent with the public interest, including the requirements of this chapter, *Minnesota Statutes*, section 237.16, and all other applicable laws, rules, and commission orders. The decision to grant a certificate under this part must be based on the following criteria:

A. the applicant's experience providing telecommunications service in Minnesota or other jurisdictions, including the extent to which that experience is comparable to the service plans outlined in the certification petition;

B. the applicant's personnel, staffing, equipment, and procedures, including the extent to which these are adequate to ensure compliance with the commission's rules and orders relating to service requirements, service quality, customer service, engineering, accounting, and other relevant areas;

C. the extent to which the applicant has had any civil, criminal, or administrative action taken against it in connection with the applicant's provision of telecommunications services;

D. the applicant's cash reserves and the extent to which those reserves or cash equivalent are adequate to meet the petitioner's start-up costs and expenses;

E. the applicant's business or owner equity, which must be positive;

F. the nature and location of the applicant's proposed or existing facilities, including the extent to which those facilities are capable of providing the services identified in the applicant's filing under this part;

G. the applicant's plan and facilities for receiving and responding to customer inquiries and complaints, which must include a toll-free telephone number giving customers access to the applicant's place of business during regular business hours; and

H. any other factors relevant to determining the applicant's technical, managerial, and financial capability to provide the reasonably adequate services, as described in its petition, consistent with the public interest, including the requirements of this chapter, Minnesota Statutes, section 237.16, and all other applicable laws, rules, and commission orders.

Subp. 4. Conditional certificate. The commission may grant a conditional certificate pending submittal and commission approval of the tariffs and intercompany agreements necessary for providing the services contemplated in the applicant's petition for certification. The filings necessary to make the conditional certificate operational must include any related changes to every service area map filed under subpart 2, item I. The maps must distinguish clearly between operational areas and nonoperational areas. A local self-provisioned service provider's failure to offer service in the nonoperational areas by the deadline under part 7811.0200, subpart 4a, results in the automatic revocation of the local service provider's certificate with respect to those nonoperational areas as provided in part 7811.0200.

Subp. 5. Amended certificate for change in service area. A local service provider (LSP) shall not provide local service in an area for which it does not have a valid certificate under this part or acquire ownership or control of another LSP without first obtaining an amended certificate from the commission applicable to the area into which the LSP proposes to expand. A petition to modify a local service provider's service area must include a revised map and descriptive narrative as provided in subpart 2, item I, indicating the petitioner's proposed service area changes. If the LSP proposes to expand into an area served by a separate LEC, the LSP must meet the service area coverage requirements of part 7811.0200 with respect to the area served by that separate LEC. The petition must be served on the parties identified in part 7811.0200, subpart 6. An amended certificate under this subpart is deemed approved within 20 days of the petition's service date unless:

A. the petition involves an acquisition under Minnesota Statutes, section 237.23, in which case a certificate must not be granted until the acquisition is approved under that section; or

B. an objection to the petition is filed within 20 days of the petition's service date, in which case the commission shall determine whether to grant the petition in an expedited proceeding under Minnesota Statutes, section 237.61. An objection must identify the reasons for opposing the petition, including a statement of why the proposed service area revisions would not be consistent with the public interest.

When an objection is filed under item B, the petitioner has the burden of proving at a minimum that it has the technical, managerial, and financial resources to provide local service in the service area into which it proposes to expand, consistent with this chapter and applicable rules, commission orders, and laws.

Subp. 6. Changes in terms and conditions. An LSP shall file and obtain approval of tariffs to reflect any changes in terms and conditions of service. The LSP filing for a tariff change under this subpart shall demonstrate that the change is consistent with the provider's certificate and applicable commission orders, rules, or laws.

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Proposed Rules

7811.0350 LOCAL RESALE SERVICE CERTIFICATION.

Subpart 1. Scope of certificate. A certificate to provide local resale service exclusively authorizes the provision of local service as a reseller throughout the service area identified in the petition. It does not authorize the provision of other telecommunications service and it does not authorize the provision of local service through the applicant's own network facilities or through the purchase and recombination of a local exchange carrier's network facilities.

Subp. 2. Filing requirements. A petition for authority to provide local service as a reseller must include the information required under part 7811.0300, subpart 2, items A to L, except for the information relevant to facilities-based service identified or contemplated in part 7811.0300, subpart 2, items G and K. The applicant shall provide any additional information needed to demonstrate that it satisfies the requirements for certification under subpart 3.

Subp. 3. Decision criteria. A certificate to provide local service as a reseller must be granted when the petitioner establishes that it has the financial, technical, and managerial capability to provide the services described in its petition consistent with the public interest, including the requirements of this chapter, *Minnesota Statutes*, section 237.16, and all other applicable laws, rules, and commission orders. The decision to grant a certificate under this part must be based on the criteria in part 7811.0300, subpart 3, to the extent those criteria relate to the applicant's technical, managerial, and financial ability to provide reasonably adequate resale service.

Subp. 4. Conditional certificate. The commission may grant a conditional certificate for local resale service as provided in part 7811.0300, subpart 4.

Subp. 5. Amended certificate for change in service area. A reseller may expand its service area as provided in part 7811.0300, subpart 5.

Subp. 6. Changes in terms and conditions. A reseller may change its terms and conditions of service as provided under part 7811.0300, subpart 6.

7811.0400 INTEREXCHANGE SERVICE CERTIFICATION.

Subpart 1. Filing requirements. A petition to provide interexchange service, but not local service, must include all the information required for local resale service petitions under part 7811.0350.

Subp. 2. Decision criteria. The commission shall apply the decision criteria identified in part 7811.0300 or 7811.0350 to the extent those criteria are relevant to providing interexchange service.

7811.0500 LOCAL NICHE SERVICE CERTIFICATION.

Subpart 1. Filing requirements. A petition to provide local niche service, but not local service or interexchange service, must include a description of the petitioner's business organization, experience, and expertise in providing telephone or telecommunications services, including local niche service. The petitioner must also submit a balance sheet indicating its current financial status.

Subp. 2. Decision criteria. The commission shall apply the criteria identified in part 7811.0300 or 7811.0350 to the extent those criteria are relevant to providing the local niche services the petitioner intends to provide.

7811.0525 LOCAL SELF-PROVISIONED SERVICE CERTIFICATION.

Subpart 1. Scope of certificate. A certificate to provide local self-provisioned service authorizes the provision of telecommunications services in Minnesota within the area identified in the applicant's petition. However, this does not include authority to provide local service through the resale of a local exchange carrier's services or the purchase and recombination of a local exchange carrier's network elements.

Subp. 2. Filing requirements. A petition for authority to provide local self-provisioned service must include the information required under part 7811.0300, subpart 2, except for the information only relevant to service provided via resale or via purchase of the LEC's network elements. The applicant shall provide any additional information needed to demonstrate that it satisfies the requirements for certification under subpart 3.

Subp. 3. Decision criteria. A certificate to provide local self-provisioned service must not be granted unless the petitioner establishes that it has the financial, technical, and managerial capability to provide the services described in its petition consistent with the public interest, including the requirements of this chapter, *Minnesota Statutes*, section 237.16, and all other applicable laws, rules, and commission orders. The decision to grant a certificate under this part must be based on the criteria in part 7811.0300, subpart 3.

Subp. 4. Conditional certificate. The commission may grant a conditional certificate for local self-provisioned service as provided in part 7811.0300, subpart 4.

Subp. 5. Amended certificate for change in service area. A provider of local self-provisioned service may expand its service area as provided in part 7811.0300, subpart 5.

Subp. 6. Changes in terms and conditions. A provider of local self-provisioned service may change its terms and conditions of service as provided under part 7811.0300, subpart 6.

7811.0550 911 EMERGENCY SERVICE CAPABILITIES AND REQUIREMENTS.

Subpart 1. CLEC 911 plan. Before providing local service in a service area, a competitive local exchange carrier (CLEC) shall submit to the commission a comprehensive plan, detailing how it will provide 911 service to its customers in a manner consistent with applicable law, including chapter 1215, and comparable to the provision of 911 service by the local exchange carrier (LEC) operating in the competitive local exchange carrier's service area. The CLEC filing the plan shall serve the plan on the department, Office of Attorney General-Residential Utilities Division (OAG-RUD), Department of Administration, and, if the CLEC proposes to serve within the metropolitan area, as defined in *Minnesota Statutes*, section 403.02, the Executive Director of the Metropolitan 911 Board. The commission shall not permit the CLEC to begin providing local service until the commission has approved the plan.

Subp. 2. LEC cooperation. A LEC shall provide a CLEC with the access to facilities and information necessary to enable the CLEC to meet its 911 service obligations. With respect to resale service, the LEC shall provide a CLEC customer's name, address, and telephone number information to the automatic location identification (ALI) database provider within 24 hours of the daily close of service order activity.

Subp. 3. Factors to apply in reviewing CLEC plan. In determining whether to approve a competitive local exchange carrier's 911 plan under subpart 1, the commission shall consider, at a minimum, the competitive local exchange carrier's ability and intent to:

- A. comply with chapter 1215;
- B. integrate into the 911 tandem network as specified in the relevant county plan to achieve appropriate tandem-based choking, if the county is served by a tandem network;
- C. design a network with adequate diversity and default-routing capability;
- D. provide for the display at the public safety answering point (PSAP) of the customer's old and new telephone numbers when call-forwarding technology is used for interim number portability;
- E. cooperate with each relevant county and system integrator in developing a 911 contingency plan;
- F. maintain circuit-routing profiles and expedite service restoration;
- G. share customer information and data consistent with current national standards for sharing information related to providing emergency telephone service;
- H. enter into nondisclosure agreements with the ALI database provider;
- I. submit data to the ALI database provider in the format required by the database provider;
- J. ensure that the competitive local exchange carrier's identity is shown on the ALI record and displayed at the PSAP to the extent required by the county; and
- K. provide for operator-assisted emergency calls, including calls from speech-impaired, hearing-impaired, or non-English speaking customers.

Subp. 4. Use of decision criteria. The factors identified in subpart 3, items A to K, must be considered as criteria to assist the commission in its evaluation of the adequacy of 911 plans. No one factor may be considered dispositive.

7811.0600 BASIC SERVICE REQUIREMENTS.

Subpart 1. Required services. A local service provider (LSP) shall provide, as part of its local service offering, the following to all customers within its service area:

- A. single party voice-grade service and touch-tone capability;
- B. 911 or enhanced 911 access;
- C. 1 + intraLATA and interLATA presubscription and code-specific equal access to interexchange carriers subscribing to its switched access service;
- D. access to directory assistance, directory listings, and operator services;

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E. toll and information service-blocking capability without recurring monthly charges as provided in the commission's ORDER REGARDING LOCAL DISCONNECTION AND TOLL BLOCKING CHARGES, Docket No. P-999/CI-96-38 (June 4, 1996), and its ORDER GRANTING TIME EXTENSIONS AND CLARIFYING ONE PORTION OF PREVIOUS ORDER, Docket No. P-999/CI-96-38 (September 16, 1996), which are incorporated by reference, are not subject to frequent change, and are available through the statewide interlibrary loan system;

F. one white pages directory per year for each local calling area, which may include more than one local calling area, except where an offer is made and explicitly refused by the customer;

G. a white pages and directory assistance listing, or, upon customer request, a private listing that allows the customer to have an unlisted or unpublished telephone number;

H. call-tracing capability according to chapter 7813;

I. blocking capability according to the commission's ORDER ESTABLISHING CONDITIONS FOR THE PROVISION OF CUSTOMER LOCAL AREA SIGNALING SERVICES, Docket No. P-999/CI-92-992 (June 17, 1993) and its ORDER AFTER RECONSIDERATION, Docket No. P-999/CI-92-992 (December 3, 1993), which are incorporated by reference, are not subject to frequent change, and are available through the statewide interlibrary loan system;

J. telecommunications relay service capability or access necessary to comply with state and federal regulations; and

K. any other services supported by federal universal support mechanisms pursuant to Code of Federal Regulations, title 47, section 54.101(a), except to the extent that:

(1) a facilities-based carrier or reseller is effectively prevented from providing such services by the local exchange carrier (LEC); or

(2) this subpart applies to a provider of commercial mobile services.

Subp. 2. Separate flat rate service offering. At a minimum, each LSP shall offer the services identified in subpart 1 as a separate tariff or price list offering on a flat rate basis. An LSP may also offer basic local service on a measured rate basis or in combination with other services. An LSP may impose separate charges for the services set forth in subpart 1 only to the extent permitted by applicable laws, rules, and commission orders.

Subp. 3. Service area obligations: all LSPs. An LSP shall provide its local services on a nondiscriminatory basis, consistent with its certificate under part 7811.0300 or 7811.0350, to all customers who request service and whose premises fall within the carrier's service area boundaries or, for an interim period, to all requesting customers whose premises fall within the operational areas of the local service provider's service area under part 7811.0300, subpart 4, or 7811.0350, subpart 4. The obligation to provide resale services does not extend beyond the service capability of the underlying carrier whose service is being resold. The obligation to provide facilities-based services does not require an LSP that is not an eligible telecommunications carrier (ETC) to build out its facilities to customers not abutting its facilities or to serve a customer if the local service provider cannot reasonably obtain access to the point of demarcation on the customer's premises.

Subp. 4. Service area obligations: ETCs. An LSP designated an ETC by the commission must provide local service, including, if necessary, facilities-based service, to all requesting customers within the carrier's service area on a nondiscriminatory basis, regardless of a customer's proximity to the carrier's facilities. An LSP may assess special construction charges approved by the commission if existing facilities are not available to serve the customer.

Subp. 5. CLEC service areas. Competitive local exchange carriers (CLECs) may designate service areas different than the service areas of LECs, as provided in this chapter.

Subp. 6. Limitation on exit. An LSP shall not withdraw from a service area unless another LSP certified for that area will be able to provide basic local service to the exiting local service provider's customers immediately upon the date the exiting provider discontinues service. An LSP shall not withdraw from its service area until at least 60 days after it has given written notice to the commission, department, Office of Attorney General-Residential Utilities Division (OAG-RUD), and its customers. The notice must identify the other LSPs available to its customers.

Subp. 7. Service disconnection. An LSP may disconnect a customer's basic local service as allowed under parts 7810.1800 to 7810.2000, except that it shall not disconnect basic local service for nonpayment of toll or information service charges or any service other than basic local service.

7811.0700 GENERAL SERVICE QUALITY REQUIREMENTS.

Subpart 1. Service to end-users. The local services provided by a local service provider (LSP) must meet the standards in:

A. applicable commission orders and rules, including parts 7810.0100 to 7810.6100 or their successor parts; and

B. the local service provider's alternative regulation plan (AFOR), if the provider is operating under an AFOR.

Subp. 2. Intercarrier agreements. All local exchange carriers (LECs) and competitive local exchange carriers (CLECs) must include quality standards in their intercarrier agreements for resale, the purchase of network elements, or interconnection. These standards must, at a minimum:

A. enable each party to the agreement to meet the standards applicable under subpart 1; and

B. ensure that the CLEC receives service, network elements, and interconnection at least at parity with the services, network elements, and interconnection the LEC provides to itself or to any subsidiary, affiliate, or other party consistent with section 251, subsection (c), paragraphs (2) and (3), of the act and section 51.311, paragraphs (b) and (c), of the FCC interconnection rules.

Subp. 3. Intercarrier standards exceeding parity. The standards in an agreement under subpart 2 may require the LEC to provide the CLEC with services, network elements, or interconnection at a level of quality exceeding that which the LEC provides itself or its affiliates. The CLEC shall pay a reasonable portion of the additional cost of providing the higher quality of service if the higher quality level goes beyond the specific mandates in applicable commission orders or rules. The reasonable portion of additional costs the CLEC must pay must be determined as provided in items A and B:

A. The CLEC shall pay for the higher quality services, network elements, or interconnection based on the proportional benefit the CLEC receives from the higher standards relative to the benefit received by the LEC.

B. The LEC shall demonstrate through its own internal quality measures that the contract standards exceed both the local exchange carrier's internal standards and the standards set forth in applicable commission orders and rules. Disputes regarding payment for higher service levels must be resolved through arbitration under section 252, subsection (b), of the act or through the dispute resolution process set forth in the parties' agreement.

Subp. 4. Determining carrier responsibility. An LSP is directly responsible to its customers for the quality of service provided to those customers. Nothing in this subpart may be interpreted or applied to impact the allocation of liability between two or more telecommunications service providers in connection with quality of service issues.

7811.0800 LOCAL CALLING SCOPE FOR CLECs.

Subpart 1. Required offering. A competitive local exchange carrier (CLEC) shall offer each end-user at least one flat rate calling area that matches the flat rate calling area offered that customer by the local exchange carrier (LEC) under part 7811.0900, subpart 1, including any applicable extended area service (EAS).

Subp. 2. Additional calling area options. Upon 30 days' notice to the commission, department, Office of Attorney General-Residential Utilities Division (OAG-RUD), and LEC, a CLEC may offer alternative calling areas or measured rate options in addition to the flat rate calling area offered under subpart 1. The rates charged under any alternative calling area or measured rate options must be just, reasonable, and affordable relative to the rates charged for the required calling area under subpart 1.

7811.0900 LOCAL CALLING SCOPE FLEXIBILITY FOR LECs.

Subpart 1. Required offering. A local exchange carrier (LEC) shall offer each end-user the flat rate calling area, including any applicable extended area service (EAS), offered by the LEC as of the effective date of this subpart, as modified to reflect any subsequent addition or removal of EAS under the following commission orders, which are incorporated by reference, regarding the commission's investigation into the Appropriate Local Calling Scope, in accordance with *Minnesota Statutes* 237.161, Docket No. P-999/CI-94-296:

A. ORDER REACTIVATING THE PROCESSING OF EAS PETITIONS (October 24, 1995); and

B. ORDER AFTER RECONSIDERATION (February 23, 1996).

These orders are not subject to frequent change and are available through the statewide interlibrary loan system.

Subp. 2. Additional calling area options. At any time after receipt of a notice under part 7811.0800, subpart 2, that a competitive local exchange carrier (CLEC) intends to offer additional alternative local calling areas or measured rate options, the LEC may, upon 30 days' notice to the commission, department, Office of Attorney General-Residential Utilities Division (OAG-RUD), and CLECs certified in the applicable area, file a tariff offering additional calling areas or measured rate options. The rates charged under an alternative calling area or measured rate options must be just, reasonable, and affordable relative to the rates charged for the required calling area under subpart 1. Changes in current rates are subject to the applicable provisions of *Minnesota Statutes*, chapter 237, regarding rate changes.

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Proposed Rules

7811.1000 ANNUAL NOTICE OF CUSTOMER RIGHTS.

At the time service is initiated, at least annually thereafter, and upon customer request, a local service provider (LSP) shall provide customers with a summary, in plain language, of the rights and obligations of customers as provided in items A to D.

A. The notice must describe the complaint procedures available through the LSP and the commission, and must indicate that the customer can contact the commission if dissatisfied with the local service provider's resolution of the customer's complaint. The notice must specify the current address and the local and toll-free telephone numbers of the commission's Consumer Affairs office.

B. The notice must describe the customer's rights regarding the payment of bills, disconnection of service, privacy, deposits, low-income assistance, hearing-impaired programs, and blocking options.

C. The notice must summarize the commission's service quality standards and the remedies available to customers for failure to meet those standards.

D. The notice must specify the price and service options as required by *Minnesota Statutes*, section 237.66.

7811.1050 NOTICE OF PRICE INCREASE.

A local exchange carrier (LEC) that is not otherwise required to provide notice under *Minnesota Statutes*, section 237.773, and that has one or more competitive local exchange carriers authorized to provide local services in its service area shall provide to its customers written notice of a price increase via bill insert or direct mail at least 20 days before the effective date of the price increase. The LEC shall also provide to the commission written notice of a price increase at least 20 days before the effective date of the price increase.

7811.1100 NOTICE AND DISCLOSURE OF CALLING AREA OFFERINGS.

New calling area offerings that differ from the calling area authorized under part 7811.0900, subpart 1, must comply with the customer notice requirements of items A to C.

A. The local service provider (LSP) shall include a map that distinguishes between the new calling area offerings and the calling area required under part 7811.0900, subpart 1, in printed advertisements and written solicitations regarding the new calling area offerings and in each customer's initial bill for service under the new calling area. The printed advertisements, written solicitations, and initial bill must include a narrative explaining the differences between the different calling area offerings, including the differences in the application of toll charges.

B. The LSP shall identify clearly the differences between any new calling area offering and the calling area required under part 7811.0900, subpart 1, including the differences in the application of toll charges, as part of any oral solicitation or contact with a customer regarding the new calling area offerings.

C. The LSP shall not provide service to a customer under a calling area different from the calling area authorized under part 7811.0900, subpart 1, unless the customer requests the new calling area after receiving direct notice and explanation as required under item A or B.

7811.1200 PROTECTION AGAINST UNAUTHORIZED CHANGES IN SERVICE OR LOCAL SERVICE PROVIDER.

A local service provider must comply with *Minnesota Statutes*, section 237.66, with respect to changes in a customer's local service provider.

7811.1300 UNIVERSAL SERVICE.

Subpart 1. State universal service support mechanism. Eligibility for any state universal service support established by the commission under *Minnesota Statutes*, section 237.16, subdivision 9, must be limited to commission-designated eligible telecommunication carriers (ETCs) that offer and market the services identified in part 7811.0600, subpart 1. The support mechanism must provide support as necessary to ensure the affordability of basic local service, on a competitively neutral basis, consistent with section 254 of the act and FCC regulations adopted under the act, for the benefit of the following categories of end-users:

A. high-cost area end-users; and

B. low-income end-users.

Subp. 2. Federal universal service support mechanism. Eligibility for federal universal service support for the benefit of high-cost area and low-income customers shall be limited to commission-designated ETCs as provided in section 254 of the federal act and applicable FCC regulations adopted pursuant to the act. Local service providers are eligible to receive federal universal service support for the benefit of rural health care providers, educational institutions, and libraries as provided in section 254, subsection (h), paragraph (1), subparagraph (B)(ii), of the act and any applicable FCC regulations.

7811.1400 ETC DESIGNATION.

Subpart 1. Automatic designation of LECs. On and after the effective date of this part, each local exchange carrier (LEC) operating in Minnesota shall be designated an eligible telecommunication carrier (ETC), eligible to receive universal service support throughout its service area existing on the effective date of this part, under both the federal support mechanism established pursuant to section 254 of the act and any state fund established pursuant to *Minnesota Statutes*, section 237.16, subdivision 9.

Subp. 2. Designation of CLECs upon petition. Upon request and consistent with the public interest, convenience, and necessity, the commission may designate a competitive local exchange carrier (CLEC) as an ETC and eligible to receive universal service support from the federal universal service support mechanisms under section 254 of the federal act and any state universal service fund established under *Minnesota Statutes*, section 237.16, subdivision 9, if the CLEC qualifies as an ETC under part 7811.0100, subpart 15. Before designating an additional eligible telecommunications carrier, the commission shall find that the designation is in the public interest. A request for designation as an ETC eligible to receive universal service support must be filed and decided according to the requirements of subparts 3 to 13.

Subp. 3. Determining applicable universal service area. A decision on a petition for designation to receive universal service support under this part must include a determination of the applicable universal service area. The applicable universal service area shall be the study area of the relevant LEC unless the commission and the FCC adopt a different service area pursuant to *Code of Federal Regulations*, title 47, section 54.203, paragraphs (c) and (d).

Subp. 4. Petition information. A competitive local exchange carrier's petition for designation as an ETC to receive federal universal service support under section 254 of the act, or any state universal service support under *Minnesota Statutes*, section 237.16, subdivision 9, must include:

- A. the legal name, address, and telephone number of the CLEC and its designated contact person;
- B. the name, address, and telephone number of the attorney, if the CLEC will be represented by an attorney;
- C. the proposed effective date of designation of eligibility to receive universal service support;
- D. the signature and title of the CLEC officer or representative authorizing the petition;
- E. identification of the service area for which designation is sought, the LEC serving that area and whether the petitioning CLEC considers that LEC to be a rural telephone company;
- F. a statement supporting the petition, which specifies why the requested designation satisfies the requirements for receiving universal service support under part 7811.0700.

Subp. 5. Filing and service. A local service provider (LSP) filing a designation petition under subpart 1 shall file an original and 15 copies of the petition with the commission, unless otherwise directed by the executive secretary. A copy of the petition must also be served on the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), those persons on the applicable general service list, and on all other LSPs authorized to provide services in the area for which designation is sought.

Subp. 6. Challenges to form and completeness. A person wishing to challenge the form or completeness of a designation petition shall do so within ten days of its filing. The filing local service provider shall reply to the challenge within five days of its filing.

Subp. 7. Rejection of filings. The commission shall reject a designation petition found to be substantially out of compliance with this part. A filing under this part not rejected within 45 days of filing is considered accepted as in substantial compliance with applicable filing requirements.

Subp. 8. Initial comments. A person wishing to comment on a designation petition under this part shall file initial comments within 20 days of the filing. Initial comments must include a recommendation on whether the filing requires a contested case proceeding, expedited proceeding, or some other procedure, together with reasons for the recommendation.

Subp. 9. Petition to intervene. If a person who files initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene before the reply comment period expires. The intervention petition may be combined with comments on the filing.

Subp. 10. Reply comments. Commenting parties have ten days from the expiration of the original comment period to file reply comments. Reply comments must be limited in scope to the issues raised in the initial comments.

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Subp. 11. Nature of proceeding. Unless all parties agree to the use of a different procedure or there are no unresolved issues of fact, the commission shall conduct an expedited proceeding under *Minnesota Statutes*, section 237.61, or refer the matter for a contested case proceeding.

Subp. 12. Time frame for disposition. The commission shall take final action within 180 days of the filing of the petition.

Subp. 13. Unserved areas. The commission may order an LSP to provide the services that are supported by a federal universal service support mechanism to an otherwise unserved area only as provided in section 102(a) of the act and consistent with *Minnesota Statutes*, sections 237.081 and 237.16.

Subp. 14. Relinquishment of universal service. A local service provider may relinquish its ETC designation and accompanying universal service obligations as provided in items A to C.

A. A local service provider seeking to relinquish its ETC designation shall file a petition with the commission, specifying the service area for which it seeks to relinquish its designation, its proposed timetable for relinquishing its designation, and the identity of the other ETCs serving the service area. The petition to relinquish must be served on the department, the OAG-RUD, and all other local service providers serving the area for which the petitioner seeks to relinquish its ETC designation.

B. The commission shall permit a local service provider to relinquish its ETC designation if at least one other ETC serves the area for which the relinquishment is sought.

C. The petitioning ETC shall continue to meet its ETC obligations for the entire area for which it seeks to relinquish those obligations until the date specified in the commission's order approving the relinquishment. The commission shall specify the date upon which the local service provider may discontinue service based on the ability of other ETCs to serve the relinquishing provider's customers as provided in section 102(a) of the act.

Subp. 15. Revocation. The commission shall revoke a local service provider's ETC designation upon finding that the LSP does not qualify as an ETC under part 7811.0100, subpart 15.

7811.1500 INTERCARRIER NEGOTIATIONS GENERALLY.

Subpart 1. Definitions. The following definitions apply to parts 7811.1500 to 7811.1900:

A. "Arbitration" means an alternative process for resolving disputes submitted to the commission pursuant to section 252 of the act, in which the commission, assisted by a neutral third party fact-finder, makes a final determination on the issues presented.

B. "Arbitrator" means the person or persons designated by the commission to conduct arbitration proceedings as provided in part 7811.1700.

C. "Intervenor" means a person who is not a party to the negotiation but who is permitted to participate as a party in a proceeding under part 7811.1700 or 7811.1800.

D. "Mediation" means a voluntary alternative dispute resolution process in which a neutral third party helps parties reach a negotiated agreement as provided in part 7811.1600.

E. "Negotiating party" means a party to negotiations under section 252 of the act.

F. "Participant" means a person who files comments or otherwise participates in an arbitration or approval proceeding without becoming a party to the proceeding.

G. "Party" means a party to the negotiations under section 252 of the act, or a person permitted to intervene in the arbitration or approval proceeding under part 7811.1700 or 7811.1800.

H. "Petition for arbitration" means the petition requesting arbitration of open issues in a negotiation for interconnection or resale pursuant to section 252 of the act.

I. "Petitioner" means a party to a negotiation who files a petition for arbitration.

J. "Respondent" means a party to a negotiation against whom a petition for arbitration is filed.

Subp. 2. Establishing initial service list. Persons desiring to receive notice of (1) requests for negotiation under section 252 of the act, (2) filings related to arbitrations under part 7811.1700, and (3) approval proceedings under part 7811.1800, shall file a written request with the incumbent local exchange carrier (LEC). The LEC shall maintain a list of all persons who have filed the requests and shall provide the list to any carrier requesting negotiations under section 252 of the act. The commission's rules of practice and procedure, part 7829.0600, subparts 2 to 5, apply to this list.

Subp. 3. Notice of interconnection request. An incumbent LEC that receives a bona fide request for negotiation pursuant to part 7811.2000, subpart 1, shall notify the commission in writing of the request. The notice must identify the party requesting negotiation and the date of the request. The notice must be filed and served on the other party to the negotiation, the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), and persons on the service list established under subpart 2 within ten days after receiving the request.

Subp. 4. **Update on negotiation status.** Each party to a negotiation shall, between 90 and 125 days after the bona fide request for negotiation, notify the commission in writing of the status of the negotiations. The status report must identify any issues that have been settled, provide any timetable for completing the negotiations on which the parties have agreed, and indicate the date, if any, on which the party anticipates filing for arbitration. The parties may file a joint status report in lieu of a separate report from each party.

7811.1600 MEDIATION OF INTERCARRIER NEGOTIATIONS.

Subpart 1. **Request for mediation.** A party may request mediation by the commission at any point during the negotiation. The parties to the negotiation may also file a joint request for mediation. The request must be in writing and must include the following information:

A. the identity of the parties to the negotiation, including the name, address, and telephone numbers and FAX numbers of the parties or their representatives;

B. the date on which the bona fide request for negotiation was made pursuant to part 7811.2000, subpart 1, or the date on which the local exchange carrier's rural exemption was terminated pursuant to part 7811.2000, whichever is later;

C. a brief summary of the parties negotiation history, including meeting dates and issues discussed;

D. a brief statement of the nature of the dispute, including a list of the issues in the negotiation that identifies which issues have already been resolved, which have not been resolved and which unresolved issues should be mediated;

E. a statement of the parameters, if any, within which the requesting party expects the mediator to help resolve the disputed issues;

F. a proposed calendar for the mediation, including a date by which the mediation should be terminated if an agreement is not reached;

G. any recommendations regarding the choice of mediator, including preferences related to qualifications or individuals; and

H. any agreements between the parties as to how the mediation should be conducted.

Subp. 2. **Notice of request.** The party requesting mediation shall serve the request on the other party or parties to the negotiation, the department and the Office of Attorney General-Residential Utilities Division (OAG-RUD).

Subp. 3. **Response to request.** The negotiating party that did not file a mediation request shall file with the commission a written response to the request within ten days after being served under subpart 2. The response must be served as provided in subpart 2. The response must indicate whether the party is willing to participate in a mediation and identify any disagreements with the text of the petition for mediation.

Subp. 4. **Decision to initiate mediation.** The commission shall initiate a mediation upon request under subpart 2 unless another party to the negotiation indicates in writing that it will not participate in a mediation. The mediation shall be initiated by appointing a mediator under subpart 5.

Subp. 5. **Appointment of mediator.** Within 15 days after receiving the mediation request, the commission or the commission's executive secretary shall appoint a person or persons to serve as mediator unless a party to the negotiation has submitted written notice that it will not participate in the mediation. Upon appointment, the mediator shall contact the parties promptly and establish a time to begin mediation. This subpart does not preclude the parties, by mutual agreement, from seeking private mediation from some other source in lieu of mediation under this part.

Subp. 6. **Mediator qualifications.** The person appointed to mediate must be an administrative law judge assigned by the Office of Administrative Hearings, a member of the commission's staff, or a person retained by the commission on contract for the purpose of mediating under this part. The mediator assigned must have training or experience in mediation or expertise in the subject matter of the negotiations.

Subp. 7. **Mediator neutrality and participation in subsequent proceedings.** The mediator must have no personal or financial interest in the outcome of the negotiations. The mediator shall not conduct or participate in any arbitration or approval proceedings regarding the matters submitted for mediation except as provided in subpart 15.

Subp. 8. **Mediator role.** The mediator has no authority to compel a settlement, but shall attempt to encourage voluntary settlement by the parties. The mediator may make suggestions or, subject to the consent of the parties, take actions the mediator considers helpful in facilitating a settlement. The mediator's actions may include:

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- A. scheduling meetings;
- B. directing the parties to provide and exchange information;
- C. holding private caucuses with each party;
- D. consulting other sources such as the department or commission staff; and
- E. making oral or written recommendations for settlement.

Subp. 9. **Representation of parties.** A party may be represented by counsel or others of the party's choice.

Subp. 10. **Privacy.** Persons other than the parties' representatives may attend mediation sessions or otherwise participate in the mediation only upon agreement of the parties and the mediator.

Subp. 11. **Confidentiality.** Records, reports, or other documents received by the mediator while serving in that capacity must not be divulged by the mediator in any subsequent proceeding. In any subsequent proceeding, the parties shall not rely on or introduce as evidence any of the following:

- A. views expressed or suggestions made by another party with respect to a possible settlement of the dispute;
- B. admissions made by another party in the course of the mediation;
- C. proposals made or views expressed by the mediator; or
- D. the fact that another party did or did not indicate a willingness to accept a proposal for settlement made by the mediator.

Subp. 12. **Discovery.** Subpart 11 does not require the exclusion of evidence in subsequent proceedings that is otherwise discoverable.

Subp. 13. **Record.** No stenographic record or electronic recording of the mediation process is permitted.

Subp. 14. **Termination of mediation.** The mediator shall end the mediation under any of the following circumstances:

- A. the parties execute an agreement on all the issues in dispute in the mediation;
- B. at least one party submits to the mediator and serves on the parties a written declaration of the party's unwillingness to continue the mediation; or
- C. the mediator determines that the mediation is unlikely to lead to a settlement, in which case the mediator shall serve on the commission and the parties a written statement terminating the mediation.

Subp. 15. **Mediator serving as arbitrator.** The mediator shall not conduct or participate in the arbitration proceedings under part 7811.1700 unless all the parties to the negotiation agree in writing. If the parties and mediator agree to have the mediator conduct the arbitration proceedings under part 7811.1700, they shall notify the commission in writing of this agreement. The mediator is deemed to have been designated to conduct the arbitration effective upon commission receipt of the written notice.

7811.1700 ARBITRATION OF INTERCARRIER NEGOTIATIONS.

Subpart 1. **Request to arbitrate.** During the period from the 135th day to the 160th day, inclusive, after the later of (1) the date on which an incumbent local exchange carrier (LEC) receives a bona fide request to negotiate pursuant to part 7811.2000, subpart 1, or (2) the date upon which the LEC's rural exemption was terminated pursuant to part 7811.2000, any party to the negotiation may petition the commission to arbitrate unresolved issues in the negotiation. The petition must include the following:

- A. the name, address, and telephone number of the petitioner and its counsel;
- B. the name, address, and telephone number of the other party to the negotiation and its counsel;
- C. a brief summary of the negotiation history since the request for negotiation was made, including meeting dates;
- D. the date of the initial bona fide request for negotiation or the date upon which the LEC's rural exemption was terminated, whichever is later, and the dates 135 days, 160 days, and nine months after that date;
- E. a list of the issues resolved by the parties, including a copy of any proposed contract language that reflects the resolution of those issues;
- F. a list of the unresolved issues, if any, that are not being submitted for arbitration;
- G. a list of the unresolved issues submitted for arbitration and the position of each of the parties with respect to those issues;
- H. any proposed contract language reflecting the parties' positions;
- I. a written narrative that explains the petitioner's position on each disputed issue and indicates how the petitioner's and respondent's positions meet or fail to meet the requirements of the act, applicable FCC regulations, applicable state statutes, and applicable rules, orders, or policies of the commission;

J. any terms and conditions the petitioner recommends imposing;

K. a proposed schedule for implementing the terms and conditions imposed in the arbitration;

L. a recommendation as to what information the other parties to the negotiation should provide, including a narrative explaining the relevance and importance of the information;

M. a proposed agreement reflecting the petitioner's recommended resolution of the disputed issues;

N. all documentation in the petitioner's possession or control that is relevant to the dispute, including:

(1) the documents the petitioner intends to rely on to support its position on each issue, including exhibits the petitioner intends to introduce at the arbitration hearing;

(2) to the extent prices are in dispute, the petitioner's proposed rates or charges and relevant cost studies and other information supporting those rates or charges;

O. any procedural recommendations regarding the conduct of the arbitration;

P. any request for a protective order;

Q. a list of all the witnesses and exhibits the petitioner intends to present at the arbitration hearing under subpart 17; and

R. any request for consolidation under subpart 12.

Subp. 2. Response to petition. A nonpetitioning party or other interested person shall file with the commission any request to modify the procedures under this part or to consolidate the proceeding under subpart 11 within five days after the petition is filed. A nonpetitioning party shall file with the commission a complete response to the arbitration petition within 25 days after the petition is filed. The response must include the information required for petitions under subpart 1.

Subp. 3. Service and verification of petition and response. The petition and response must be served on the other party to the negotiations, the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), and all persons on the service list established pursuant to part 7811.1500, subpart 2. Petitions and responses under subparts 1 and 2, and their accompanying documentation, must be verified.

Subp. 4. Assignment of arbitrator. The commission shall meet and issue an order assigning an arbitrator within 25 days after the petition is filed. The commission may appoint a single arbitrator or a panel of arbitrators. The order may include procedural requirements or guidelines for the conduct of the arbitration in addition to those established in this part, and must include a decision on any request to consolidate proceedings under subpart 12. If the procedures set forth in the commission's order conflict with the procedures established in this part, the commission shall vary the requirements of this part as necessary under part 7829.3200.

Subp. 5. Mediation-arbitration hybrid. The arbitration shall proceed without a commission order under subpart 4 if the arbitrator was designated under part 7811.1600, subpart 15, unless a party files a petition with the commission to decide procedural disputes regarding the conduct of the arbitration.

Subp. 6. Arbitrator qualifications. The arbitrator must be, or the arbitration panel must include, an administrative law judge with the Office of Administrative Hearings or a person with arbitration or adjudicative experience retained by the commission on contract for the purpose of arbitrating under this part. If an arbitration panel is used, the administrative law judge or other experienced arbitrator under contract with the commission shall chair the panel.

Subp. 7. Arbitrator neutrality. The person assigned to conduct the arbitration proceedings must have no personal or financial interest in the outcome of the proceeding. The arbitrator must not have participated or assisted materially in the negotiations leading up to the arbitration unless the arbitrator served as a mediator and was assigned under part 7811.1600, subpart 15, or the negotiating parties otherwise agree expressly in writing to waive the limitation in this subpart.

Subp. 8. Arbitrator role and authority. The arbitrator shall conduct the arbitration proceedings and submit a recommended decision to the commission. The commission is the final arbiter and shall issue the final binding decision under section 252, subsection (b), paragraph (4), of the act. The arbitrator has those duties and powers necessary to conduct the arbitration, including the authority to:

A. conduct hearings and prehearing conferences;

B. direct parties to serve verified statements and exhibits;

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- C. supervise discovery procedure;
- D. administer oaths and affirmations;
- E. examine witnesses and allow parties to examine an adverse party or agent;
- F. rule upon matters that do not result in the final determination of the proceeding;
- G. direct any person to produce witnesses or information relevant to issues in the arbitration;
- H. waive any of the requirements in this part upon agreement of the parties or for good cause;
- I. issue protective orders as provided in subpart 9; and
- J. issue proposed arbitration decisions as provided in subpart 19.

Subp. 9. Proprietary information. Trade secret and proprietary information must be treated as provided under the commission's rules of practice and procedure, part 7829.0500. At any time during the proceeding, the arbitrator or commission may enter an order to protect the confidential, proprietary, or trade secret nature of data, information, or studies.

Subp. 10. Intervenors and participants. The department and OAG-RUD may intervene in an arbitration proceeding by filing comments or a request to intervene within 25 days after the arbitration petition is filed. The comments or intervention request must be served on the negotiating parties and the persons on the service list established under part 7811.1500, subpart 2. No other intervention is permitted. Others wishing to participate may attend hearings as observers, file written comments and request the opportunity for oral argument to the arbitrator or the commission as provided in part 7829.0900.

Subp. 11. Staff involvement. Commission staff may attend all prehearing conferences and hearings. Staff may question witnesses to the extent the arbitrator considers the questions relevant and helpful in developing a record for decision.

Subp. 12. Consolidation. A party or other interested person may petition the commission to consolidate an arbitration with another arbitration or related proceeding. The petition must identify the issues common to the proceedings for which consolidation is sought, indicate the appropriate deadline for completing the consolidated proceeding, and explain why the request should be granted based on the criteria in items A to D. The commission may also take up the issue of consolidation on its own motion. The commission may consolidate an arbitration with another proceeding if the rights of the parties or the public interest will not be materially prejudiced by consolidation. The commission shall decide whether to consolidate based on:

- A. the commonality of issues and interests in the proceedings;
- B. the degree to which consolidation would reduce administrative burdens on the commission and the parties in the proceedings for which consolidation is being considered;
- C. the administrative burdens and delay that may result from consolidation; and
- D. the rights and preferences of the parties.

Subp. 13. Discovery request and response. A party may serve requests for discovery on other parties at any time after the arbitration petition is filed, and may seek discovery by any means available under the Rules of Civil Procedure for the District Courts of Minnesota, subject to the discretion of the arbitrator under subpart 14. Initial requests for discovery must be served no later than 35 days after the arbitration petition is filed. The response to the request must explain any refusal to provide the information requested. The request and response must be served on the parties and filed with the arbitrator and the commission.

Subp. 14. Arbitrator discretion. The arbitrator may establish a schedule for discovery and set any reasonable limits on the type, scope, or extent of discovery as needed to avoid delay or undue hardship on a party. The arbitrator's authority includes, but is not limited to, authority to set deadlines for responses to discovery requests and to limit the number of questions permitted in any written depositions or interrogatories.

Subp. 15. Inadequate response to discovery requests. If a party believes another party has failed to respond adequately to a discovery request, the party shall file a written statement to that effect with the arbitrator before the hearing has closed. The statement must identify specifically the alleged inadequacies and provide the reasons for concluding that the discovery responses were inadequate. The party against whom the allegation is made may file a written statement responding to the allegation according to the timetable established by the arbitrator. The arbitrator or commission may do any of the following based on a party's failure to respond adequately to discovery requests or cooperate in the discovery process:

- A. issue an order to compel discovery;
- B. resolve the issue to which the discovery pertains in favor of the party making the discovery request; or
- C. treat the failure as a failure to negotiate in good faith under the act.

Subp. 16. Prehearing conference. The arbitrator shall hold at least one prehearing conference no later than ten days after the response to the arbitration petition is filed under subpart 2. The arbitrator shall ensure the parties receive notice of the prehearing

conference at least 48 hours in advance. The notice may be provided in writing by mail, hand-delivery or facsimile, or orally by telephone. The arbitrator may hold as many prehearing conferences as necessary to ensure the fair and expeditious conduct of the arbitration. The prehearing conferences may be used to set the hearing schedule and guidelines, and to consider all other relevant procedural matters, including:

- A. identification and narrowing of issues;
- B. amendments to documents;
- C. limitations on the number of witnesses; and
- D. discovery.

Subp. 17. **Hearing.** If material issues of fact are in dispute, the arbitrator must conduct a hearing with the opportunity for cross-examination. The arbitrator shall schedule the hearing to ensure the proceeding can be completed by the deadline under the act. The arbitrator shall conduct the hearing according to the following procedures:

- A. The arbitrator shall serve notice of the hearing on all parties and participants at least five days before the hearing begins.
- B. Oral testimony must be given under oath and witnesses are subject to cross-examination.
- C. The arbitrator may, with or without timely objection, exclude evidence or limit testimony that is irrelevant or unduly repetitious.
- D. The arbitrator shall ensure that a written transcript of the hearing is prepared.

Subp. 18. **Posthearing argument and comment.** Parties shall file briefs and reply briefs as directed by the arbitrator. Participants may file comments and reply comments during the briefing period.

Subp. 19. **Arbitrator's recommended decision.** The arbitrator shall issue a recommended decision on the issues submitted for arbitration no later than 35 days before the date nine months after the later of (1) the request for negotiation that gave rise to the arbitration, or (2) the termination of the LEC's rural exemption, pursuant to part 7811.2000. The decision must be in writing, setting forth the recommended resolution of each issue submitted for arbitration that has not been resolved through subsequent negotiations. The decision must also include a recommended schedule for implementation by the parties. The decision must be accompanied by a written memorandum that provides the rationale for each recommended resolution, including any necessary findings and relevant citations to law or the record.

Subp. 20. **Exceptions.** The parties and participants may file exceptions to the recommended decision and requests for oral argument with the commission no later than ten days after the arbitrator issues the recommended decision under subpart 19.

Subp. 21. **Commission decision.** The commission shall issue a final arbitration decision no later than 35 days after the arbitrator issues the recommended decision. The decision must include a resolution of each issue submitted for arbitration that has not been resolved through subsequent negotiations. The decision must also include a schedule for implementation by the parties and a deadline for submitting a final agreement to the commission for approval under part 7811.1800.

Subp. 22. **Decision criteria.** Issues submitted for arbitration must be resolved consistent with the public interest, to ensure compliance with the requirements of sections 251 and 252(d) of the act, applicable FCC regulations, and applicable state law, including rules and orders of the commission.

Subp. 23. **Burden of proof.** The burden of production and persuasion with respect to issues of material fact are on the incumbent LEC. The facts at issue must be proven by a preponderance of the evidence. The arbitrator may shift the burden of production as appropriate, based on which party has control of the critical information regarding the issue in dispute. The arbitrator may also shift the burden of proof as necessary to comply with applicable FCC regulations regarding burden of proof.

7811.1800 AGREEMENT APPROVAL.

Subpart 1. **Filing of agreement.** The negotiating parties shall submit a complete agreement to the commission by the deadline established in the commission's final arbitration order under part 7811.1700, subpart 21, unless the agreement does not include any arbitrated terms, in which case the parties may file the agreement at a time of their own choosing. The agreement must contain all negotiated and arbitrated terms and must include a memorandum that:

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A. identifies and explains inconsistencies between the arbitrated terms of the agreement and the commission's arbitration decision;

B. explains how the agreement is consistent with the public interest and nondiscriminatory as to other local service providers;

C. describes the likely impact, if any, on the rates or service of the end-use customers of both providers; and

D. provides the rationale for severance, if requested under subpart 3.

Subp. 2. Service. The negotiating parties shall serve the agreement on the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), and persons on the service list established under part 7811.1500, subpart 2. The agreement must be served on the same day it is submitted to the commission.

Subp. 3. Severance of arbitrated and negotiated terms. The commission shall consider arbitrated terms separate from negotiated terms with respect to a single negotiation request under the act only if the commission finds that the arbitrated matters are unrelated to the negotiated matters as, for example, wholesale rates for resale may be unrelated to interconnection issues. A request for severance under this subpart must be made in writing prior to or as part of the filing of the agreement under subpart 1.

Subp. 4. Comments. Parties and participants may file written comments on the filing under subpart 1 no later than ten days after the agreement is filed.

Subp. 5. Decision criteria. The commission shall reject an agreement if it finds that the agreement discriminates unreasonably against another telecommunications carrier as defined in *United States Code*, title 47, section 153, paragraph (44), is inconsistent with the public interest or, with respect to its arbitrated terms, fails to comply with the commission's arbitration decision under part 7811.1700, subpart 21, or meet the arbitration standards set forth in part 7811.1700, subpart 22.

Subp. 6. Commission decision. The commission shall issue a written order accepting or rejecting the agreement. The commission shall issue its decision no later than 90 days after the agreement is filed unless:

A. the parties to the agreement agree to extend the deadline;

B. the agreement filed under subpart 1 contains no negotiated terms, in which case the commission shall issue its decision within 30 days; or

C. the commission considers the arbitrated terms separately as a separate agreement pursuant to a severance under subpart 3, in which case the commission shall issue its decision with respect to the arbitrated terms within 30 days.

Subp. 7. Rehearing. If the commission rejects an agreement, the parties may file a petition for rehearing at any time, provided the parties have agreed to changes that they believe remedy the deficiencies identified by the commission. If the parties cannot agree on changes, they shall proceed with negotiations and, if necessary, arbitration according to section 252 of the act and parts 7811.1500 to 7811.1800.

7811.1900 DISPUTES ARISING UNDER EXISTING AGREEMENTS.

Disputes arising in the implementation of an agreement must be submitted to the commission for arbitration under part 7811.1700, unless the agreement provides a different mechanism for resolving those disputes.

7811.2000 RURAL EXEMPTION FROM NEGOTIATION AND INTERCONNECTION REQUIREMENTS.

Subpart 1. Bona fide request. A competitive local exchange carrier (CLEC) seeking interconnection, services, or network elements with a local exchange carrier (LEC) shall submit to the LEC a bona fide request. The bona fide request shall include, to the extent known, the CLEC's best reasonable estimate of the following information concerning interconnection services or network elements that the CLEC believes may be within the scope of its request to be negotiated or arbitrated with the LEC.

A. Points of interconnection:

(1) Yes No line-side interconnections;

(2) Yes No trunk-side interconnections;

(3) Yes No tandem trunk interconnections;

(4) Yes No central office cross-connects;

(5) Yes No out-of-band signaling transfer points, including call-related databases;

(6) Yes No points of access to unbundled network elements;

(7) Yes No interconnection facilities with specifications different from the incumbent LEC's facilities;

(8) Yes No two-way trunks.

B. Unbundled elements:

- (1) Yes No local loops, including subloop unbundling;
- (2) Yes No network interface devices;
- (3) Yes No local or tandem switching;
- (4) Yes No interoffice transmission facilities;
- (5) Yes No signaling networks and call-related databases, including service management systems;
- (6) Yes No operations support systems;
- (7) Yes No operator services and directory assistance.

C. Collocation:

- (1) Yes No physical, including:
 - (a) Yes No transmission equipment;
 - (b) Yes No equipment used to terminate transmission equipment;
- (2) Yes No virtual;
- (3) Yes No meet point.

D. Wholesale services:

- (1) Yes No residential;
- (2) Yes No business;
- (3) Yes No unbranded or rebranded call completion;
- (4) Yes No unbranded or rebranded operator;
- (5) Yes No unbranded or rebranded directory assistance.

E. Number portability: Yes No

Subp. 2. Notice of claim to rural exemption. A LEC, seeking to retain or establish a rural exemption under *United States Code*, title 47, section 251, subsection (f), paragraph (1), shall, no later than 20 days after receiving a CLEC's bona fide request for interconnection, services, or network elements under *United States Code*, title 47, section 251, notify the requesting company, the commission, the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), and the city clerk, or other official authorized to receive service or notice, of all municipalities within the LEC's designated service area, of its claim to the exemption. A LEC failing to assert its exemption claim as provided in this subpart is deemed to have waived any right it may have to the exemption for purposes of the specific bona fide request for which it has failed to assert the exemption. The notice must state the basis upon which the LEC:

A. considers itself to be a rural telephone company; and

B. considers the CLEC's request to be unduly economically burdensome, technically infeasible, or inconsistent with *United States Code*, title 47, section 254 (other than subsections (b), paragraph (7), and (c), paragraph (1), subparagraph (D), of that section.

Subp. 3. CLEC response to exemption claim. An affected CLEC shall file any challenge to a LEC's exemption claim under subpart 2, including a request to terminate the exemption, within 20 days after receiving the LEC's notice under subpart 2.

Subp. 4. Discovery; parties. The following parties may seek discovery: the CLEC, the LEC, the commission, the department, the OAG-RUD, and any other entity granted intervenor status by the commission.

Subp. 5. Discovery request; proprietary information. The CLEC may seek discovery of the LEC before submitting a bona fide request. Once the CLEC has sought discovery or filed a bona fide request, any party may seek discovery of any other party. Before responding, a party may seek a commission order to protect its trade secrets and proprietary information within the meaning of part 7829.0500 from disclosure or use outside the scope of the proceeding.

Subp. 6. Discovery procedures; service and response. The parties may seek discovery by any means available under the Rules of Civil Procedure for the district courts of Minnesota, rules of the Office of Administrative Hearings, and standard public utilities

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commission practice, subject to the discretion of the commission. The response to any request for discovery must explain any refusal to provide the information requested. The request and the response must be served on all parties and filed with the commission. A party may request to meet with other parties to facilitate information exchange. Each party shall respond reasonably to the request and may be accompanied at a meeting by a representative, including an attorney representing the party.

Subp. 7. Discovery disputes. Discovery disputes must be resolved by the commission, or by the Office of Administrative Hearings if the commission has referred the matter to that office.

Subp. 8. Time frame for determination of request. Within 120 days after a CLEC files a notice of its bona fide request, the commission shall determine whether to terminate or continue a rural exemption.

Subp. 9. Standard for terminating exemption. The commission shall terminate the exemption if the request is:

A. not unduly economically burdensome;

B. technically feasible; and

C. consistent with the universal service provisions of *United States Code*, title 47, section 254, other than subsections (b), paragraph (7), and (c), paragraph (1), subparagraph (D).

Subp. 10. Exception for request from cable operator. Notwithstanding subpart 9, the commission shall not grant a rural exemption with respect to a request from a cable operator providing video programming and seeking to provide telecommunications services in an area in which a rural telephone company is providing video programming unless the rural telephone company was providing video programming on February 8, 1996.

Subp. 11. Implementation schedule. A commission decision to deny or terminate an exemption must include a schedule for implementing the negotiation, arbitration, and agreement approval requirements of *United States Code*, title 47, section 252.

7811.2100 SUSPENSIONS OR MODIFICATIONS OF INTERCONNECTION REQUIREMENTS.

Subpart 1. Petition for suspension or modification. A local exchange carrier (LEC) seeking suspension or modification of the application of the requirements of *United States Code*, title 47, section 251, subsection (b) or (c), pursuant to *United States Code*, title 47, section 251, subsection (f), paragraph (2), shall file a petition with the commission. The petition must include:

A. the legal name, address, and telephone number of the LEC and its designated contact person;

B. the name, address, and telephone number of the attorney if the LEC will be represented by an attorney;

C. the date of the filing, which is the date the commission receives the LEC's filing or the date designated by the LEC, whichever is later;

D. the proposed effective date of the suspension or modification sought by the LEC;

E. the signature and title of the LEC officer or representative authorizing the petition;

F. a description of the obligations the LEC seeks to suspend or modify, including:

(1) specific references to the relevant provisions of section 251, subsection (b) or (c), of the act;

(2) a copy of the relevant bona fide request, if the LEC seeks to suspend or modify the application of the requirement to negotiate; and

(3) a copy of the relevant commission-approved interconnection agreement, if the LEC seeks to suspend or modify the application any portion of section 251, subsection (b) or (c), of the act, other than the requirement to negotiate;

G. a detailed description of the modifications or suspensions the LEC is seeking, including the proposed duration of each suspension or modification;

H. the number of subscriber lines the LEC has nationwide, at the holding company level, and the LEC's estimate of the total number of all LEC subscriber lines nationwide;

I. a statement supporting the petition, which must specify why each requested modification or suspension meets the conditions for modification or suspension specified in section 251, subsection (f), paragraph (2), subparagraphs (A) and (B), of the act, and applicable FCC regulations; and

J. a statement as to whether the LEC requests the commission to grant a temporary stay under subpart 9 of the obligations the LEC seeks to modify or suspend.

Subp. 2. Filing and service. The petition filed under subpart 1 must be served on the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), each competitive local exchange carrier (CLEC) to which the requested suspensions or modifications would likely apply, and those persons on an applicable general service list established by the commission.

Subp. 3. Challenges to form and completeness. A challenge to the form or completeness of a petition filed under subpart 1 must be received by the commission and served on the LEC within ten days after the LEC's petition is filed. The LEC shall reply to the challenge within five days of the date it receives the filing challenging its petition.

Subp. 4. Rejection of filings. The commission shall reject a modification or suspension petition it finds to be substantially out of compliance with subpart 1 or 2. A modification or suspension petition is considered to be in substantial compliance with subparts 1 and 2 if the commission does not issue an order rejecting the petition within 45 days after the petition is filed.

Subp. 5. Initial comments. Comments on a modification or suspension petition must be filed with the commission within 20 days after the petition is filed. Initial comments must include a recommendation on the type of proceeding the commission applies to the petition and the reasons for the recommendation.

Subp. 6. Reply comments. Reply comments must be filed with the commission within ten days after the deadline for filing initial comments under subpart 5. Reply comments must be limited in scope to the issues raised in the initial comments.

Subp. 7. Petition to intervene. Petitions to intervene must be filed by the deadline for reply comments under subpart 6. An intervention petition may be combined with initial or reply comments filed under subpart 5 or 6.

Subp. 8. Nature of proceeding. Unless all parties agree to use a different procedure or there are no material issues of fact in dispute, the commission shall conduct an expedited proceeding under *Minnesota Statutes*, section 237.61, or refer the matter for a contested case proceeding under *Minnesota Statutes*, chapter 14.

Subp. 9. Stay of LEC obligations pending final disposition of petition. The commission may suspend enforcement of any of the obligations which the LEC's petition seeks to modify or suspend pending final disposition of the petition if, based on the standards applied by Minnesota courts for granting temporary injunctions, the commission determines that a suspension would be appropriate.

Subp. 10. Commission disposition. The commission shall decide the petition according to the requirements in section 251, subsection (f), paragraph (2), subparagraphs (A) and (B), of the act, and applicable FCC regulations.

Subp. 11. Time frame for disposition. The commission shall take final action on a petition within 180 days after receiving a petition that substantially complies with the filing requirements of subparts 1 and 2.

7811.2200 COMPETITIVE LOCAL EXCHANGE CARRIER; NEW SERVICE INTRODUCTION AND RATE CHANGES.

Subpart 1. Generally. The local services provided by a competitive local exchange carrier (CLEC) are subject to *Minnesota Statutes*, chapter 237, and the commission's rules in the same manner as the local services provided by a local exchange carrier (LEC), except:

- A. the CLEC is not subject to *Minnesota Statutes*, section 237.22;
- B. the CLEC is not subject to rate-of-return regulation or earnings investigations under *Minnesota Statutes*, section 237.075;
- C. the CLEC is not subject to rate-of-return regulation or earnings investigations under *Minnesota Statutes*, section 237.081;
- D. the CLEC is not subject to automatic requirements to file cost studies with tariff filings; and
- E. as otherwise provided in this chapter.

A competitive local exchange carrier's local service is also subject to *Minnesota Statutes*, sections 325F.692 and 325F.693.

Subp. 2. Filing requirements. Every CLEC shall elect and keep on file with the department either a tariff or a price list for each service on or before the effective date of the tariff or price, containing the rules, rates, and classifications used by it in the conduct of the telephone business. The filings are governed by *Minnesota Statutes*, chapter 13. The department shall require each CLEC to keep open for public inspection at designated offices so much of these rates, tariffs, price lists, and rules as the department considers necessary for public information.

Subp. 3. Special pricing. Except as prohibited by *Minnesota Statutes*, section 237.60, subdivision 3, prices unique to a particular customer or group of customers may be allowed for services when differences in the cost of providing a service or a service element justify a different price for a particular customer or group of customers. The commission may allow individual pricing for services when it determines that a uniform price should not be required because of market conditions.

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Subp. 4. Rate decrease without notice. A CLEC may decrease the rate for a service, or make any change in a tariff or price list that results in a decrease in rates, effective without notice to its customers or the commission.

Subp. 5. Notice of change in service. A CLEC may offer a new service, increase the rate for a service, or change the terms, conditions, rules, and regulations of its service offering effective upon notice to its customers.

Subp. 6. Service promotion. A CLEC may promote the use of service by offering a waiver of part or all of the recurring or non-recurring charge, a redemption coupon, or a premium with the purchase of a service. The customer group to which the promotion is available must be based on reasonable distinctions among customers. No single promotion may be effective for longer than 90 days at a time. The service being promoted must have a price that is above the incremental cost of the service, including amortized cost of the promotion. A promotion may take effect the day after the notice is filed with the commission.

Subp. 7. Reasonable notice. A CLEC may give notice to its customers by bill insert, by publication in newspapers of general circulation, or by any other reasonable means. Written notice of a price increase must be made via bill insert or direct mail at least 20 days before the effective date of the price increase. The LEC shall also provide to the commission written notice of a price increase at least 20 days before the effective date of the price increase.

7811.2300 RULE REVIEW AND REVISION.

The commission shall appoint a task force no later than July 1, 2002, to evaluate the provisions in this chapter and determine whether any provisions of this chapter should be revised or deleted. The task force shall make its recommendations to the commission within six months after the date it is appointed. As a result of the task force recommendations, the commission may propose revisions to this chapter or any other related rules.

7812.0050 APPLICABILITY.

This chapter applies to all telecommunications service providers operating under the commission's jurisdiction in Minnesota, except for parts 7812.0100, subpart 51, 7812.2000, and 7812.2100. ~~This chapter does not apply to telephone companies with fewer than 50,000 subscribers, unless specified otherwise in this chapter regarding the provision of local telephone service in any area served by a telephone company that:~~

- A. currently has fewer than 50,000 subscribers; and
- B. the commission certificated to provide local telephone services before January 1, 1988.

7812.0100 DEFINITIONS.

[For text of subps 1 to 11, see M.R.]

Subp. 12. Competitive local exchange carrier or CLEC. "Competitive local exchange carrier" or "CLEC" means:

- A. a telecommunications carrier that is certified by the commission to provide local service; or
- B. a telephone company to the extent it provides local service in an ~~area other than its initial service area~~ exchange area for which neither the company nor any of its predecessors was certified on August 1, 1995.

This subpart does not exempt a telephone company under *Minnesota Statutes*, section 237.01, subdivision 2, from the applicable requirements of *Minnesota Statutes*, chapter 237, including rate of return regulation or earnings investigations under *Minnesota Statutes*, section 237.075 or 237.081, and depreciation requirements under *Minnesota Statutes*, section 237.22.

[For text of subps 13 and 14, see M.R.]

Subp. 15. Eligible telecommunications carrier or ETC. "Eligible telecommunications carrier" or "ETC" means a local service provider designated by the commission as eligible to receive federal universal service support pursuant to the federal Telecommunications Act of 1996, *United States Code*, title 47, section 254, based on a determination by the commission that the local service provider, at a minimum, meets the requirements of items A and B, throughout the applicable universal service area:

- A. The local service provider offers the services identified by the Federal Communications Commission as eligible for support by federal universal service support mechanisms under the federal Telecommunications Act of 1996, at *United States Code*, title 47, section 254, using its own facilities or a combination of its own facilities and either the unbundled network elements of a local exchange carrier or resale of another carrier's services; and,
- B. The local service provider advertises the availability of the services referenced in item A and the charges for those services using media of general distribution.

[For text of subps 16 to 28, see M.R.]

Subp. 29. Local exchange carrier or LEC. "Local exchange carrier" or "LEC" means a telephone company; ~~with 50,000 or more subscribers;~~ that is authorized to provide local telephone service in Minnesota under *Minnesota Statutes* 1994, section 237.16, subdivision 2.

[For text of subps 30 to 43, see M.R.]

Subp. 43a. **Rural exemption.** “Rural exemption” means the exemption from the obligations of *United States Code*, title 47, section 251, subsection (c), granted to a rural telephone company pursuant to *United States Code*, title 47, section 251, subsection (f), paragraph (1).

Subp. 43b. **Rural telephone company.** “Rural telephone company” has the meaning given in *United States Code*, title 47, section 153, paragraph (37).

[For text of subp 44, see M.R.]

Subp 44a. [See repealer.]

[For text of subps 44b to 48, see M.R.]

Subp. 49. **Telephone company.** “Telephone company” means a person, firm, association, or other entity, as defined in *Minnesota Statutes*, section 237.01, subdivision 2; ~~but does not include an independent telephone company as defined in *Minnesota Statutes*, section 237.01, subdivision 3.~~

[For text of subp 50, see M.R.]

Subp. 51. **Universal service area.** “Universal service area” means:

A. ~~the study area of a local exchange carrier with fewer than 50,000 subscribers, or any other local exchange carrier the commission finds through a proceeding to be a rural company under section 3(47) of the federal Telecommunications Act of 1996 with respect to a rural telephone company, the local exchange carrier’s study area or any other area designated jointly by the commission and the FCC pursuant to *Code of Federal Regulations*, title 47, section 54.203, paragraphs (c) and (d); or~~

B. the exchange area, or a different geographic unit identified by the commission under part 7812.1400, subpart 3, of a local exchange carrier ~~servicing 50,000 or more subscribers, unless the commission has found the local exchange carrier to be a rural telephone company under section 3(47) of the federal Telecommunications Act of 1996.~~

7812.0200 GENERAL CERTIFICATION REQUIREMENTS.

Subpart 1. **Scope.** No person may provide telecommunications service in areas served by local exchange carriers with 50,000 or more subscribers in Minnesota without first obtaining a certificate under this part and parts 7812.0300 to 7812.0600, except to the extent the person is providing telephone service under a certificate issued by the commission before July 28, 1997.

[For text of subps 2 to 8, see M.R.]

7812.0550 911 EMERGENCY SERVICE CAPABILITIES AND REQUIREMENTS.

Subpart 1. **CLEC 911 plan.** Before providing local service in a service area, a competitive local exchange carrier (CLEC) shall submit to the commission a comprehensive plan, detailing how it will provide 911 service to its customers in a manner consistent with applicable law, including chapter 1215, and comparable to the provision of 911 service by the local exchange carrier (LEC) operating in the competitive local exchange carrier’s ~~local~~ service area. The CLEC filing the plan shall serve the plan on the department, Office of Attorney General-Residential Utilities Division (OAG-RUD), Department of Administration, and, if the CLEC proposes to serve within the metropolitan area, as defined in *Minnesota Statutes*, section 403.02, the Executive Director of the Metropolitan 911 Board. The commission shall not permit the CLEC to begin providing local service until the commission has approved the plan.

[For text of subps 2 to 4, see M.R.]

7812.1400 ETC DESIGNATION.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Determining applicable universal service area.** A decision on a petition for designation to receive universal service support under this part must include a determination of the applicable universal service area. The commission shall determine whether the LEC serving the area for which the CLEC seeks designation to receive universal service support is a rural telephone company ~~under section 3(47) of the act~~, if the competitive local exchange carrier’s petition or another party’s initial comments under subpart 8 assert that the LEC is a rural telephone company. If the applicable LEC has 50,000 or more subscribers and is not found by the commission to be a rural telephone company, the commission shall designate the local exchange carrier’s exchange

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area as the universal service area unless the commission finds that a smaller geographic unit would be more appropriate, based on consideration of the relevant high-cost areas designated by the FCC and the public interest.

Subp. 4. **Petition information.** A competitive local exchange carrier's petition for designation as an ETC to receive federal universal service support under section 254 of the act, or any state universal service support under *Minnesota Statutes*, section 237.16, subdivision 9, must include:

- A. the legal name, address, and telephone number of the CLEC and its designated contact person;
- B. the name, address, and telephone number of the attorney, if the CLEC will be represented by an attorney;
- C. the proposed effective date of designation of eligibility to receive universal service support;
- D. the signature and title of the CLEC officer or representative authorizing the petition;
- E. identification of the service area for which designation is sought, the LEC serving that area and whether the petitioning CLEC considers that LEC to be a rural telephone company ~~under section 3(47) of the act~~;
- F. a statement supporting the petition, which specifies why the requested designation satisfies the requirements for receiving universal service support under part 7812.0700.

[For text of subps 5 to 14, see M.R.]

Subp. 15. **Revocation.** The commission shall revoke a local service provider's ETC designation upon finding that the LSP does not qualify as an ETC under part 7812.0100, subpart ~~12~~ 15.

7812.1800 AGREEMENT APPROVAL.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Decision criteria.** The commission shall reject an agreement if it finds that the agreement discriminates unreasonably against another telecommunications carrier as defined in *United States Code*, title 47, section 153, ~~subsection (r)~~, paragraph ~~(49)~~ (44), is inconsistent with the public interest or, with respect to its arbitrated terms, fails to comply with the commission's arbitration decision under part 7812.1700, subpart 21, or meet the arbitration standards set forth in part 7812.1700, subpart 22.

[For text of subps 6 and 7, see M.R.]

7812.2000 RURAL ~~CARRIER~~ EXEMPTION FROM NEGOTIATION AND INTERCONNECTION REQUIREMENTS.

Subpart 1. **Notice of claim to rural exemption.** A local exchange carrier (LEC); ~~or small local exchange carrier (SLEC)~~, seeking to retain or establish a rural ~~company~~ exemption under *United States Code*, title 47, section 251, subsection (f), paragraph (1), shall, no later than 20 days after receiving a competitive local exchange carrier's (CLEC's) bona fide request for interconnection, services, or network elements under *United States Code*, title 47, section 251, notify the requesting company, the commission, the department, and the Office of Attorney General-Residential Utilities Division (OAG-RUD), of its claim to the exemption. A LEC ~~or SLEC~~ failing to assert its exemption claim as provided in this subpart is deemed to have waived any right it may have to the exemption for purposes of the specific bona fide request for which it has failed to assert the exemption. The notice must state the basis upon which the LEC ~~or SLEC~~ considers itself to be a rural telephone company ~~under section 3(47) of the act~~.

Subp. 2. **CLEC response to exemption claim.** An affected competitive local exchange carrier (CLEC) shall file any challenge to a LEC's ~~or SLEC's~~ exemption claim under subpart 1, including a request to terminate the exemption, within 20 days after receiving the LEC's ~~or SLEC's~~ notice under subpart 1.

Subp. 3. **Commission decision.** The commission shall determine a LEC's ~~or SLEC's~~ eligibility for an exemption asserted under subpart 1, including whether the exemption should be terminated, as provided in *United States Code*, title 47, section 251, subsection (f), paragraph (1), and applicable FCC regulations. A commission decision to deny or terminate an exemption must include a schedule for implementing the negotiation, arbitration, and agreement approval requirements of *United States Code*, title 47, section 252.

7812.2100 SUSPENSIONS OR MODIFICATIONS OF INTERCONNECTION REQUIREMENTS.

Subpart 1. **Petition for suspension or modification.** A local exchange carrier (LEC) ~~or small local exchange carrier (SLEC)~~ seeking suspension or modification of the requirements of *United States Code*, title 47, section 251, subsection (b) or (c), pursuant to *United States Code*, title 47, section 251, subsection (f), paragraph (2), shall file a petition with the commission. The petition must include:

- A. the legal name, address, and telephone number of the LEC ~~or SLEC~~ and its designated contact person;
- B. the name, address, and telephone number of the attorney if the LEC ~~or SLEC~~ will be represented by an attorney;

- C. the date of the filing, which is the date the commission receives the LEC's ~~or SLEC's~~ filing or the date designated by the LEC ~~or SLEC~~, whichever is later;
- D. the proposed effective date of the suspension or modification sought by the LEC ~~or SLEC~~;
- E. the signature and title of the LEC ~~or SLEC~~ officer or representative authorizing the petition;
- F. a description of the obligations the LEC ~~or SLEC~~ seeks to suspend or modify, including specific references to the relevant provisions of section 251, subsection (b) or (c), of the act;
- G. a detailed description of the modifications or suspensions the LEC ~~or SLEC~~ is seeking, including the proposed duration of each suspension or modification;
- H. the number of subscriber lines the LEC ~~or SLEC~~ has nationwide, at the holding company level, and the LEC's ~~or SLEC's~~ estimate of the total number of all LEC ~~or SLEC~~ subscriber lines nationwide;
- I. a statement supporting the petition, which must specify why each requested modification or suspension meets the conditions for modification or suspension specified in section 251, subsection (f), paragraph (2), subparagraphs (A) and (B), of the act and applicable FCC regulations; and
- J. a statement as to whether the LEC ~~or SLEC~~ requests the commission to grant a temporary stay under subpart 9 of the obligations the LEC ~~or SLEC~~ seeks to modify or suspend.

[For text of subp 2, see M.R.]

Subp. 3. **Challenges to form and completeness.** A challenge to the form or completeness of a petition filed under subpart 1 must be received by the commission and served on the LEC ~~or SLEC~~ within ten days after the LEC's ~~or SLEC's~~ petition is filed. The LEC ~~or SLEC~~ shall reply to the challenge within five days of the date it receives the filing challenging its petition.

[For text of subs 4 to 11, see M.R.]

REPEALER. *Minnesota Rules*, part 7812.0100, subpart 44a, is repealed.

INCORPORATIONS BY REFERENCE

Part 7811.0600: ORDER REGARDING LOCAL DISCONNECTION AND TOLL BLOCKING CHARGES, Docket No. P-999/CI-96-38 (June 4, 1996); ORDER GRANTING TIME EXTENSIONS AND CLARIFYING ONE PORTION OF PREVIOUS ORDER, Docket No. P-999/CI-96-38 (September 16, 1996); ORDER ESTABLISHING CONDITIONS FOR THE PROVISION OF CUSTOMER LOCAL AREA SIGNALING SERVICES, Docket No. P-999/CI-92-992 (June 17, 1993), and ORDER AFTER RECONSIDERATION, Docket No. P-999/CI-92-992 (December 3, 1993), are available through the statewide interlibrary loan system.

Part 7811.0900: ORDER REACTIVATING THE PROCESSING OF EAS PETITIONS, Docket No. P-999/CI-94-296 (October 24, 1995); and ORDER AFTER RECONSIDERATION, Docket No. P-999/CI-94-296 (February 23, 1996), are available through the statewide interlibrary loan system.

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Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and mat-

Office of the Attorney General

Meeting Notice for Comments on Proposed Revisions to Brochure "Landlord and Tenants: Rights and Responsibilities"

Pursuant to *Minnesota Statute* 504.22 subdivision 4a, the Attorney General's Office will hold a public meeting regarding proposed revisions to the brochure, "Landlord and Tenants: Rights and Responsibilities." This meeting will be held Tuesday, September 30, 1997, from 10:00-11:00 a.m., at 1400 NCL Tower, 445 Minnesota Street, St. Paul, MN 55101. If anyone needs a reasonable accommodation, please contact Jennifer Freeman at (612) 296-7575 by Friday, September 26.

Comments are also welcome by mail, phone or fax. Please contact Jennifer Freeman at (612) 296-7575, to request the revised brochure text or to send comments. She will also take comments by fax at (612) 296-9663, or by mail at 1400 NCL Tower, 445 Minnesota Street, St. Paul, MN 55101.

Emergency Medical Services Regulatory Board

Notice of Completed Application in the Matter of the License Application of the St. Peter Area Ambulance Service, St. Peter, Minnesota for a New License, Advanced Ambulance - Specialized

PLEASE TAKE NOTICE that the Emergency Medical Services Regulatory Board (hereinafter "EMSRB") has received a completed application from the **St. Peter Area Ambulance Service, St. Peter, Minnesota**, for a new license, advanced ambulance - specialized.

NOTICE IS HEREBY GIVEN that, pursuant to *Minnesota Statutes* sec. 144E.11, subd. 3 (1997), each municipality, county, community health board, governing body of a regional emergency medical services system, ambulance service and other person wishing to make recommendations concerning the disposition of the application, shall make written recommendations or comments opposing the application to the EMSRB within 30 days or by October 15, 1997, 4:30 p.m.

Written recommendations or comments opposing the application should be sent to: Keith Wages, Executive Director EMSRB, 2829 University Avenue, SE, Suite 310, Minneapolis, MN 55414-3222.

If fewer than six comments opposing the application are received during the comment period, and the EMSRB approves the application, the applicant will be exempt from a contested case hearing, pursuant to *Minnesota Statutes* sec. 144E.11, subd. 4 (1997). If six or more comments in opposition to the application are received during the comment period or the EMSRB denies the application, the applicant may immediately request a contested case hearing, or may try to resolve the objections of the public and/or the EMSRB within 30 days, pursuant to *Minnesota Statutes* sec. 144E.11, subd. 5(a), (b) (1997). If the applicant is unable to resolve the objections within 30 days, or if the applicant initially requests a hearing, a contested case hearing will be scheduled and notice of the hearing given pursuant to *Minnesota Statutes* sec. 144E.11, subd. 5(c), (e) (1997).

Dated: 2 September 1997

R. Keith Wages, Executive Director

Metropolitan Airports Commission

Notice of Public Hearing Concerning Acquisition of Property Near Saint Paul Downtown Airport, Ramsey County, Minnesota

NOTICE IS HEREBY GIVEN that the Metropolitan Airports Commission, a public corporation organized under the laws of the State of Minnesota, will hold a public hearing pursuant to *Minnesota Statutes* § 473.641 to consider the acquisition by the Metropolitan Airports Commission of certain property located near Saint Paul Downtown Airport, more specifically:

Property located in Riverview Industrial Park in plats number 3, 5, 8 and 10, Registered Surveys 369 and 399,

Northport 1 Addition, Second Addition to Broklynd and adjoining roads, outlots and railroad property, all in Ramsey County, Minnesota.

The public hearing will be held commencing at 2:00 p.m. on the 7th day of October, 1997 in Room 3040 of the Lindbergh Terminal Building at Minneapolis-St. Paul International Airport.

The hearing will afford interested persons, groups and agencies an opportunity for public consideration of the economic, social and environmental effects of the proposed acquisition. Any person wishing to submit information relating to this matter may appear at the public hearing and make an oral statement or present written material. Persons intending to make oral presentations are requested to notify the Commission by October 3, 1997 in writing or by telephone to Ms. Jenn Unruh, Metropolitan Airports Commission, 6040 28th Avenue South, Minneapolis, MN 55450; telephone 726-8100. Written statements and other exhibits relating to this matter will be incorporated into the transcript of the hearing, provided such statements or exhibits are submitted at the hearing or are presented to the Metropolitan Airports Commission prior to the close of work on October 10, 1997.

Dated: 8 September 1997

/s/Nigel D. Finney
for Jeffrey W. Hamiel
Executive Director
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

Lehan J. Ryan
Oppenheimer Wolff & Donnelly
1700 First Bank Building
St. Paul, MN 55101

Metropolitan Airports Commission

Notice of Public Hearing Concerning Acquisition of Property Adjoining Airlake Airport, Dakota County, Minnesota

NOTICE IS HEREBY GIVEN that the Metropolitan Airports Commission, a public corporation organized under the laws of the State of Minnesota, will hold a public hearing pursuant to *Minnesota Statutes* § 473.641 to consider the acquisition by the Metropolitan Airports Commission of certain property located adjoining Airlake Airport, more specifically:

Approximately 2 acres including land and buildings at 8330 West 220th Street, Lakeville, Minnesota 55044 located in the Southwest Quarter of Section 33, Township 114, Range 20, Dakota County, Minnesota.

The public hearing will be held commencing at 2:00 p.m. on the 7th day of October, 1997 in Room 3040 of the Lindbergh Terminal Building at Minneapolis-St. Paul International Airport.

The hearing will afford interested persons, groups and agencies an opportunity for public consideration of the economic, social and environmental effects of the proposed acquisition. Any person wishing to submit information relating to this matter may appear at the public hearing and make an oral statement or present written material. Persons intending to make oral presentations are requested to notify the Commission by October 3, 1997 in writing or by telephone to Ms. Jenn Unruh, Metropolitan Airports Commission, 6040 28th Avenue South, Minneapolis, MN 55450; telephone 726-8100. Written statements and other exhibits relating to this matter will be incorporated into the transcript of the hearing, provided such statements or exhibits are submitted at the hearing or are presented to the Metropolitan Airports Commission prior to the close of work on October 10, 1997.

Dated: 8 September 1997

/s/Nigel D. Finney
for Jeffrey W. Hamiel
Executive Director
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

Lehan J. Ryan
Oppenheimer Wolff & Donnelly

Department of Health

Division of Environmental Health

Request for Comments on Planned Amendment to Rules Governing Radiation, *Minnesota Rules, Chapter 4730*

Subject of Rules. The Minnesota Department of Health requests comments on its planned amendment to rules governing radiation. The Department is considering rule amendments proposed to: delete language that is inconsistent with federal requirements; add new requirements; revise current requirements; and reorganize adopted rules for clarity, consistency and continuation of concern for the reduction of unnecessary radiation for the public of Minnesota. The Department is considering amendments to the following rule parts:

- 4730.0100 Definitions.
- 4730.0310 Permissible Doses, Levels, And Concentrations.
- 4730.0340 Determination of Accumulated Occupational Dose.
- 4730.0400 Registration Requirements.
- 4730.0500 Renewal of Registration.
- 4730.0600 Registration Fees.
- 4730.0900, Subpart 1, Vendor Responsibility, Generally.
- 4730.1120 Reports of Incidents Involving Radiation Sources.
- 4730.1140 Notifications and Reports to Individual Workers.
- 4730.1210 Prohibited Uses of Radiation.
- 4730.1510 Registrant's Safety Requirements.
- 4730.1530 Ordering of Radiographic Examinations.
- 4730.1600 Requirements for Shielding in Installations.
- 4730.1655 Required Quality Assurance Program Procedures.
- 4730.1665 Computed Tomography Quality Control Measurements.
- 4730.1670, Subpart 1, Radiation Safety Surveys, Applicability.
- 4730.1680 Therapeutic X-ray System Spot Checks of Calibration.
- 4730.1690 Quality Assurance Records.
- 4730.1691 Diagnostic Quality Control Tests for A Quality Assurance Program.
- 4730.1693 Therapy Quality Control Tests and Limits for Measurement Equipment.
- 4730.1695 Quality Control Tests for External Beam Teletherapy and Simulation Systems.
- 4730.1750 General Equipment Requirements for All Diagnostic Radiographic Systems.
- 4730.1850 Diagnostic Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, Veterinary Medicine, Or Computed Tomography Systems.
- 4730.1950, Subpart 4, item C, Intraoral Dental Radiographic Systems, Safety Controls.
- 4730.2150 Fluoroscopic X-ray Systems.

Other parts of Chapter 4730 are not under consideration for amendment at this time. Other parts may be consider under this planned rulemaking for purposes of clarity or consistency.

Persons Affected. The amendment to the rules would likely affect any medical, dental, veterinary, chiropractic, podiatric or therapeutic facility using radiation sources within the state of Minnesota.

Statutory Authority. *Minnesota Statutes*, sections 144.05, subdivision 1, paragraph (c) and 144.12, subdivision 1, item (15), authorizes the Department to adopt rules that establish and enforce health standards for the protection and, more specifically, for the promotion of the public's health for controlling sources of radiation, and the handling, storage, transportation, use and disposal of radioactive isotopes and fissionable materials.

Public Comment. Interested persons or groups may submit comments or information on these planned rules in writing until 4:30

p.m. on October 15, 1997. The Department does contemplate appointing an advisory committee to comment on the planned rules. If you are interested in appointment to the advisory committee, please contact the agency contact person by 4:30 p.m. on October 15, 1997. The Department anticipates that the advisory committee will meet three or four times from late October 1997 to January 1998.

Rules Drafts. The Department has not yet prepared a draft of the planned rules amendments.

Agency Contact Person. Written or oral comments, questions, and requests for more information on these planned rules should be addressed to:

Tina Leland or Jeanne Eggleston
Phone: (612) 215-0929 Phone: (612) 215-0735
Division of Environmental Health
Department of Health
121 East Seventh Place, Suite 220
P.O. Box 64975
St. Paul, Minnesota 55164-0975
Fax: (612) 215-0976
TTY: (612) 215-0707

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started.

Patricia A. Bloomgren, Director
Division of Environmental Health

Department of Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Certifications for Commercial Construction Projects

Effective September 15, 1997 prevailing wage rates were determined and certified for commercial construction projects in the following counties:

Crow Wing: #6 Oil Viscosity Control Retrofit - Regional Human Services Center-Brainerd.

Hennepin: Green Concourse Moving Walks - MSP International Airport-Minneapolis; Lindbergh Terminal Concession Area / Phases 2 & 3 MSP International Airport-Minneapolis; Building Removal - 1810 & 1825 May Street-Long Lake; Building Removal - 3644 Lilac Drive North-Robbinsdale; White Barn Renovation - Baker National Golf Maintenance-Medina.

Itasca: Gymnasium Roof Replacement - MCF Thistledeew Forestry Camp Facility-Togo.

Kandiyohi: Reroofing Service Building - Regional Treatment Center-Willmar.

Olmsted: Removal and Replacement Roof Membrane - Rochester Community College-Rochester.

Pine: Furnace & Water Heater Replacement-Willow River; Crew Room Renovation - MNDOT Truck Station-Pine City.

Polk: Demolition & Site Clearance - Central Middle and Crestwood Schools-East Grand Forks.

Ramsey: Department of Revenue Building - 600 North Robert Street-St. Paul; Bus Maintenance & Warming House Buildings-White Bear Lake; Computer Room A/C Replacement - BCA-St. Paul; Department of Agriculture Biological Controls/Greenhouse-St. Paul; Telephone System Upgrade - St. Andrews School-St. Paul; Two Gazebo Picnic Shelters - City of St. Paul-St. Paul.

Rice: Boiler Refractory Repair-Faribault.

St. Louis: Window Glazing - Duluth Public Schools-Duluth; Asbestos Abatement/Floor Tile Removal - Duluth Public Schools-Duluth; Installation of Data Cabling Including Fibre Optic - Duluth Public Schools-Duluth.

Stearns: Liberty Savings Expansion & Block Improvements-St. Cloud.

Stevens: Building Egress Modifications/Chokio School-Chokio; Reroofing - Chokio School-Chokio.

Copies of the certified wage rate for these projects may be obtained by writing the Minnesota Department of Labor and Industry,

Official Notices

Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306. The charge for the cost of copying and mailing is \$1.36 per project. Make check or money order payable to the State of Minnesota.

Gary W. Bastian,
Commissioner

Department of Natural Resources

License Bureau

Request for Comments on Planned Rule and Rule Amendments Governing Electronic Licensing System for Game and Fish Licenses and Cross Country Ski Passes *Minnesota Rules*, parts 6212.0100 through 6212.1300

Subject of Rule. The Minnesota Department of Natural Resources requests comments on its planned rule and rule amendments governing electronic issuance of game and fish licenses and cross country ski passes by agents and subagents. The department is considering rule changes in *Minnesota Rules*, parts 6212.0100 through 6212.1300, concerning:

- 1) appointments of agents and subagents to sell game and fish licenses and cross country ski passes;
- 2) consignments of game and fish licenses and cross country ski passes;
- 3) completion of license and pass forms and return of "DNR copy" of license and pass;
- 4) required records, reports, and payments for issuance of game and fish licenses and cross country ski passes;
- 5) issuance of duplicate licenses and passes; and
- 6) prohibitions and penalties on issuance of game and fish licenses and cross country ski passes.

Persons Affected. The rules will first be used for a pilot project that will cover up to four volunteer counties, of which not more than two may be in the metropolitan area. It is likely that the electronic licensing system will be expanded beyond four counties in the future and the rules would apply state-wide. Up to four county auditors that sell licenses and passes and distribute licenses will initially be affected, along with their agents and subagents. When the electronic licensing system is expanded in the future, all 87 county auditors and their agents and subagents will be affected. The rules may affect businesses such as sporting goods stores, retail outlets, bait shops, resorts, and guides services that sell licenses and passes. Hunters, anglers, and cross country skiers who purchase licenses and passes may be affected.

Advisory Committee. The department does not contemplate appointing an advisory committee to comment on the planned rule. Direct communication with interested and affected parties and meetings with organizations of affected parties will provide adequate input for the proposed rule.

Statutory Authority. The adoption of these rules is authorized by *Minnesota Statutes*, 1997, section 84.027, subdivision 15.

Public Comment. Interested persons or groups may submit comments or information on these planned rules in writing or orally until 4:30 p.m. on November 17, 1997. The department has not yet prepared a draft of the planned rule. Written or oral comments, questions, requests to receive a draft of the rule when it has been prepared, and requests for more information on this planned rule should be addressed to:

Karen Beckman
Department of Natural Resources
License Bureau
500 Lafayette Road, Box 26
St. Paul, Minnesota 55155-4026
Telephone (612) 297-4941

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: Comments submitted in response to this notice will be considered in drafting rules, but comments submitted in response to this notice will not be included in the formal rulemaking record when a proceeding to adopt a rule is started.

Dated: 8 September 1997

Karen Beckman
Assistant Administrator

Minnesota State Retirement System

Regular Meeting of the Board of Directors

The regular meeting of the Board of Directors, Minnesota State Retirement System, will be held on Thursday, September 18, 1997, at 9:00 a.m. in the office of the System, 175 W. Lafayette Frontage Road, St. Paul, Minnesota.

Office of the Secretary of State

Elections Division

Request for Comments on Planned Amendment to Rules Governing Voter Registration, *Minnesota Rules*, chapter 8200

Subject of Rules. The Office of the Secretary of State requests comments on its planned amendment to rules governing voter registration at the polling place on election day. The Secretary is considering rule amendments that would allow a voter to prove residence in a precinct on election day by producing a specified government-issued photo identification card and a specified utility bill, residential lease, or residential mortgage. If the photo identification card established the voter's identity and the utility bill, lease, or mortgage established the voter's current address in the precinct, the voter would have proven residence in the precinct under the rule amendments.

Persons Affected. The amendment to the rules would likely affect eligible voters, election officials, candidates for public office, and political parties.

Statutory Authority. *Minnesota Statutes*, section 201.061, subdivision 3(2), gives the Secretary authority to approve documents as proper identification for proving residence on election day. *Minnesota Statutes*, section 201.221, subdivision 1, gives the Secretary authority to adopt rules consistent with state and federal election law to implement the provisions of the voter registration laws, *Minnesota Statutes*, chapter 201.

Public Comment. Interested persons or groups may submit comments or information on these planned rules in writing or orally until 4:30 p.m. on November 14, 1997. The Secretary does not contemplate appointing an advisory committee to comment on the planned rules.

Rules Drafts. The Secretary has not yet prepared a draft of the planned rule amendments but anticipates that a draft of the rule amendments will be available before the publication of the proposed rules.

Agency Contact Person. Written or oral comments, questions, requests to receive a draft of the rule amendments when they have been prepared, and requests for more information on these planned rules should be addressed to:

Joseph Mansky
Director, Election Division
Office of the Secretary of State
180 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1299
(612)215-1440

TTY users may call the Secretary at (612)297-5353 or (800)627-3529.

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 15 September 1997

State Grants & Loans

Joan Anderson Growe
Secretary of State

Department of Transportation

Petition of the Division of State Aid For Local Transportation for a Variance from State Aid Requirements for DESIGN STANDARDS USING ENGLISH UNITS

NOTICE IS HEREBY GIVEN that the Division of State Aid For Local Transportation has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to all State-Aid and Federal- Aid plans let prior to October 1, 1998.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2500, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit plans which are designed and constructed according to the english unit standards contained in the *Minnesota Rules* Chapter 8820, adopted in 1991 and amended in 1993; in lieu of the *Minnesota Rules* Chapter 8820, adopted November 11, 1995.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 September 1997

Patrick B. Murphy

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Division Director
State Aid for Local Transportation

Department of Health

Division of Family Health

Notice of Availability of Funds for a System-wide Analysis of Family Planning in Minnesota

The Minnesota Department of Health (MDH), Division of Family Health (DFH) is requesting proposals to undertake a system-wide analysis of the publicly subsidized family planning activities in Minnesota. The goal of the project is to make recommendations so that a more equitable and efficacious state-wide subsidized family planning service system is in place.

Objectives of the Project:

1. Evaluate the effectiveness of the current state system in providing subsidized family planning services statewide, including but not limited to, the use of state and federal funds.
2. Determine need for subsidized family planning services in the state. Factors considered should include, but not be limited to, location, type of services, age and race/ethnicity.
3. Evaluate outcomes of Minnesota's subsidized family planning system, including but not limited to, the impact on the occurrence of unintended pregnancy.
4. Make recommendations that will increase the effectiveness and efficiency of the state family planning system as a whole, and specifically state funds which are administered as the Family Planning Special Project grant program.

Eligible applicants must have demonstrated competence in providing evaluation services for a project of this scope, as well as capacity, education, experience and knowledge in family planning. Those currently receiving state funds, i.e. current Family

Planning Special Projects grantees, are not eligible to apply. All data collection instruments must be shared with MDH for review and possible revision before use. The Minnesota Department of Health reserves the right to reject any and all applicants and is not responsible for any costs incurred in the preparation of proposals.

Proposals must be received no later than 4:00 PM, November 7, 1997. Late or faxed proposals will not be accepted. The complete request for proposals is available from:

Minnesota Department of Health
Mary Jo Mehelich
Family Planning Special Project Consultant
Maternal and Child Health Section
Division of Family Health
717 Delaware Street SE
Minneapolis, MN 55440
(612) 623-5713

Prospective respondents who have any questions regarding this request for proposals may call or write Mary Jo Mehelich, Family Planning Special Project Consultant, Division of Family Health, at the telephone number or address above.

Housing Finance Agency

Notice of Acceptance of Applications for 4d Property Tax Classification Monitoring and Inspection Services

The Minnesota Housing Finance Agency (MHFA) is pleased to announce that it is accepting applications for the monitoring and/or inspection services related to the new 4d property tax rate created by the 1997 Legislature. The new class rate, which effectively reduces the level of property taxes payable, was adopted by the Legislature in May, 1997, and take effect in January, 1998. The MHFA has been designated as the responsible State Agency to create, review and monitor the process associated with receiving the lower tax rate.

The purpose of this request for applications is to create a network of monitoring and inspection entities to ensure the entire state has coverage and is able to receive the new tax rate. These designated entities will be solely responsible for providing monitoring and inspection services. Property owners will request the new tax rate by application to MHFA in January and February of each year. Property owners will submit an application fee equal to \$25/development and a monitoring fee equal to \$15/pledged unit/year at the time of application. The monitoring entity will receive the \$15/pledged unit/year directly from the MHFA once a year based on the number of units applying for the new tax class rate. The inspection entity will create and collect fees separately for inspection services.

The enclosed Description of Services will briefly describe the requirements of the program and the monitor/inspector's responsibility. If your organization is interested in providing monitoring and/or inspection services, please complete the enclosed Application and return to the attention of John Ward at MHFA. Applicants will indicate the area in which they would deliver the services. Priority will be given to those monitoring and/or inspection entities efficiently serving the largest areas. In the case of inspection services, entities currently enforcing rental housing maintenance standards will be given priority. The inspection entity will have to include their fees and justify those costs. This is a bidding process and, with all contracts, price and area are negotiable. The application will be due at the MHFA office no later than 4:00 P.M. on Wednesday, October 15, 1997, or postmarked by that same date.

If you have any questions, please call John Ward at (612) 296-9802. We look forward to hearing from you.

Housing Finance Agency

Notice of Reallocation of HOME Funds

The Minnesota Housing Finance Agency (MHFA) has reallocated \$3,148,763 in federal assistance to assist in the flood recovery effort. The reallocated federal assistance is from an annual U.S. Department of Housing and Urban Development (HUD) grant, the HOME Investment Partnerships. Through a series of waivers, MHFA is able to use HOME for activities not identified in the Minnesota Consolidated Plan.

Copies of the changes can be obtained by calling: 612/296-7608, 1/800/657-3769 or (TTY) 612/297-2361. Questions about these changes can be directed to either Jim Cegla at 612/297-3126 or CJ Eisenbarth Hager at 612/296-8147.

State Grants & Loans

Copies of the changes are also available at the following depositories:

Upper Minnesota Valley RDC; 323 West Schlieman; Appleton
MN Coalition for the Homeless; 122 W Franklin Ave Ste 520; Minneapolis
Bemidji Public Library; 6th & Beltrami; Bemidji
Headwaters RDC; PO Box 906; Bemidji
Northwest MN Initiative Fund; 722 Paul Bunyan Drive NW; Bemidji
East Central Regional Library; 244 S Birch; Cambridge
Tri-Valley Opportunity Council; PO Box 607; Crookston
Duluth Public Library; 520 W Superior St.; Duluth
Arrowhead RDC; 330 Canal Park Drive; Duluth
Northland Foundation; 332 W Superior St. Ste 600; Duluth
W Central MN Housing Partnership; 220 W Washington Ave Ste B-3; Fergus Falls
W Central MN Initiative Fund; 220 W Washington Ste 205; Fergus Falls
Grand Marais Public Library; PO Box 280; Grand Marais
Southwest MN Initiative Fund; PO Box 130; Granite Falls
Central MN Initiative Fund; 70 SE 1st Avenue; Little Falls
Minnesota Valley Regional Library; 100 E Main St.; Mankato
Region Nine; PO Box 3367; Mankato
Marshall-Lyon County Library; 301 W Lyon St.; Marshall
Minneapolis Public Library; 300 Nicollet Mall; Minneapolis
Upper Midwest American Indian CTR; 1113 W Broadway; Minneapolis
Centro Cultural Chicano; 2201 Nicollet Ave S; Minneapolis
American Indian Housing Group; 1305 E 24th Street; Minneapolis
Lake Agassiz Regional Library; Box 699; Moorhead
East Central RDC; 100 S Park Street; Mora
Owatonna/Steele County Library; Box 387; Owatonna
Southeast MN Initiative Fund; 540 West Hills Circle; Owatonna
Red Wing Public Library; 225 E Avenue; Red Wing
Rochester Public Library; 11 1st Street SE; Rochester
Southwest RDC; 2401 Broadway Ave Suite 1; Slayton
Southwestern MN Housing Partnership; Box 265; Slayton
Great River Regional Library; 405 St. Germain; St. Cloud
Central MN Housing Partnership; PO Box 642; St. Cloud
St. Paul Public Library; 90 W 4th St.; St. Paul
Metro Council; 230 E 5th Street; St. Paul
Council on Black Minnesotans; 2233 University Ave - 426 Wright Bldg.; St. Paul
Spanish Speaking Affairs Council; 50 Sherburne Avenue Room G-4; St. Paul
Asian Pacific Minnesotans; 205 Aurora Ave - 100 Meridian Bank; St. Paul
CLUES; 220 S Robert St. Ste 103; St. Paul
Region 5 RDC; 611 Iowa Avenue; Staples
Northwest Regional Library; 101 E 1st St.; Thief River Falls
Arrowhead Library System; 701 11th Street N; Virginia

Northwest RDC; 115 South Main Suite 1; Warren
Pioneerland Public Library System; 401 W 5th St.; Willmar
Mid-Minnesota; 333 W 6th St.; Willmar
Winona Public Library; 151 W 5th Street; Winona
Nobles County Library; PO Box 99; Worthington
SE MN Housing Network Project; 1414 North Star Drive; Zumbrota
Minnesota Housing Finance Agency; 400 Sibley, Ste. 300; St. Paul

If an alternative format is necessary for persons with special needs, please contact Denise Rogers at 612/296-8206.

Department of Human Services

Notice of Request for Proposals for Prepaid Health Plans

The Department of Human Services (Department) is seeking additional proposals from qualified prepaid health plans to provide comprehensive health care services to the eligible MinnesotaCare population. Currently, approximately 100,000 eligible MinnesotaCare enrollees are enrolled with prepaid health plans. The Department is seeking additional contractors or expansion of current contractors' networks. MinnesotaCare is a program designed to serve working Minnesotans who meet applicable eligibility criteria. The Department is interested in proposals that would provide prepaid health care services to all eligible MinnesotaCare enrollees in all 87 counties.

A table of potential MinnesotaCare Eligible Enrollees by county (as of 09/97) will be available as a part of the Request for Proposal document.

Enrollment figures will be based on individuals eligible for MinnesotaCare in each county as of September 1997 as reported in the MinnesotaCare Enrollment Report.

The enrollment process will be done by mail. A new enrollee must select a plan and pay a premium in order access health care. Enrollees who do not select a plan will be assigned to a plan. The contract period covered by this Request for Proposals will be from January 1, 1998 through December 31, 1998. Contracts with qualified health plans may be renewed for subsequent contract periods.

Prepaid health plans contracting for MinnesotaCare must be able to provide or arrange for all services in the benefit sets. Contracting health plans will be expected to administer three benefit packages and a dental supplement. Prepaid health plans must be able to provide all MinnesotaCare and Medical Assistance (MA) covered services and must be able to accept financial risk. Children Under Age 21 and Pregnant Women are eligible for the complete MA benefit set. Parents of MinnesotaCare children are eligible for the MinnesotaCare benefits, with applicable copays and limits. Adults Without Children are eligible for the MinnesotaCare benefits, with applicable copays and limits. After June 30, 1998, some MinnesotaCare adults will be eligible for a dental supplement.

Plans are required to propose rates for all populations in MinnesotaCare within the rate parameters prescribed in the Request for Proposal. Experience data and parameters for rate setting are available with the complete Request for Proposal Packet. Contracts will be awarded based upon: (1) capacity and geographic accessibility of all geographic sites, (2) ability to comply with all service delivery requirements appropriate to the demographics of the population to be enrolled, (3) financial and risk capability, and (4) ability to meet quality assurance, complaint and appeal and reporting requirements. The commissioner reserves the right to reject any proposal.

The complete request for proposal which contains detailed specifications, including rates preparation parameters, may be obtained by writing or contacting:

Lill Tallaksen
Minnesota Department of Human Services
444 Lafayette Road, North
St. Paul, MN 55155-3854
Telephone (612) 215-1826

Ms. Tallaksen is the only person at the Department of Human Services who is authorized to answer questions regarding this document. Organizations interested in responding to this request may ask for the request for proposal either on 3.5 inch diskette in WordPerfect for Windows version 6.1 format or in paper format. The complete request for proposal will be available to be mailed on September 17, 1997.

State Grants & Loans

Current health plan contractors for MinnesotaCare need only submit changes from their most recent response, rate proposals, and network information.

The deadline for submitting any proposal is Friday, October 17, 1997 at 4:00 PM. Incomplete responses or responses submitted after that time may be rejected.

Pollution Control Agency

Water Quality Division

Applications Accepted for Resource Investigation and Project Implementation Grants and Loans through the Clean Water Partnership (CWP) Program

The Minnesota Pollution Control Agency (MPCA) hereby announces that it will accept applications for Resource Investigation and Project Implementation Grants and Loans through the Clean Water Partnership Program.

In 1987, the Minnesota Legislature established the CWP Program (*Minnesota Statutes* §§ 103F.701 through 103F.761) to protect and improve surface and ground water in Minnesota through financial and technical assistance to local units of government.

Applications will be accepted from local units of government interested in leading a nonpoint source pollution control project. CWP project funding is awarded in two phases. The first phase, the Resource Investigation Phase, involves the completion of a diagnostic study and implementation plan that identifies pollution problems, their causes, and identifies the combination of management practices necessary to improve or protect water quality. The second phase, the Project Implementation Phase, involves implementing the activities identified in the first phase as necessary to improve or protect water quality.

All completed applications must be received by 4:30 p.m. on November 19, 1997, in order to be eligible.

Minnesota Rules 7076.0100 through 7076.0290 provide the criteria and procedural conditions under which the MPCA may award assistance to local unit of government. An information package is available for all interested parties. This package includes: 1) the CWP application; 2) a copy of *Minnesota Rules* 7076.0100 through 7076.0290; 3) a copy of *Minnesota Statutes* §§ 103F.701 through 103F.761; and 4) other guidance documents. Request additional information and the CWP Application Information Package from:

Julie McDonnell
Minnesota Pollution Control Agency
Water Quality Division
Watershed Assistance Section
520 Lafayette Road North
St. Paul, Minnesota 55155-4194
Phone: (612) 296-8420

Department of Public Safety

Minnesota Auto Theft Prevention Program

Grant Availability for Aid in Identification of Critical Issues, Education and Awareness, and Investigation and Prosecution of Motor Vehicle Theft

The Minnesota Auto Theft Prevention Program Board announces the availability of grant money to be used in the reduction of motor vehicle theft by funding programs which aid in the identification of critical issues, education and awareness and investigation and prosecution. Applications will be accepted from State, County, Local Police, Governmental Agencies, Prosecutors, Judiciary, Businesses, and Community and Neighborhood Organizations. The moneys granted must be dedicated to the area of auto theft. This is the second round of auto theft grants. These grant proposals will be due by December 31, 1997. Grant proposal forms and information may be obtained by contacting Dennis Roske at the Auto Theft Prevention Office at (612/405-6153 or 405-6155).

State Grants & Loans

Department of Public Safety

Notice of Availability of Funds for Public Safety Initiatives

The Minnesota Department of Public Safety announces the availability of State Omnibus Crime Act of 1997 (Chapter 239) funds to:

- (1) Reimburse law enforcement agencies who have contributed members to the State Gang Strike Force. Law enforcement agencies may make application for a member to become part of the Gang Strike Force and request reimbursement for the loss of that member; and
- (2) Grants are available to expand local capacity to combat gangs.

A total of \$5,000,000 is available for these initiatives. The estimated size for awards vary with the individual programs. This is a one time appropriation.

Local law enforcement agencies may apply. Agencies must be part of a multi- jurisdictional effort to apply for funding under section 1. The deadline for submission is Friday, October 24, 1997. To receive a request for proposal and application contact:

Minnesota Department of Public Safety
Attn. Rosalind R. Sullivan, Grants Coordinator
445 Minnesota Street
Suite 1000
North Central Life Tower
St. Paul, MN 55101-2128
Telephone: (612) 297-1697
TTY: (612) 282-6555

Department of Trade and Economic Development

Business and Community Development Division

Proposed Method of Distribution for Emergency Supplemental Small Cities Community Development Block Grant Funds

NOTICE IS HEREBY GIVEN that the Minnesota Department of Trade and Economic Development, Business and Community Development Division, is submitting its Consolidated Plan Action Plan for use of \$21,567,909 million in advance funding from Community Development Block Grant supplemental appropriations as outlined in the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters (Public Law 105-18). The Consolidated Plan Action Plan includes the method of distribution of the \$21,567,909 million in CDBG disaster supplement appropriations and explanations on activities related to buyouts, relocation, mitigation and long-term recovery. The Minnesota Department of Trade and Economic Development, Business and Community Development Division, is requesting permission to draw immediately on the CDBG funds in order to assist communities that were included in Presidential Disaster Declarations FEMA-DR-1151-MN, FEMA-DR-1158-MN and FEMA-DR-1175-MN. State and federal agencies have been gathering public information since the beginning of the Disaster Declarations in order to develop rebuilding strategies.

Below are the estimated calculations for the State's disaster recovery allocations for the eight communities cited in the August 6 letter announcing release of the \$21,567,909 million. Calculations have been made by the Minnesota Recovers Disaster Task Force.

This task force is made up of more than 20 state and federal agencies which have been working with the public and communities on rebuilding strategies. This effort to develop an overall strategy is being accomplished by providing community leaders with the information they need to assist in rebuilding. Training sessions, bus tours, extensive media access and dozens of public meetings have been held to help both victims and local elected officials make informed decisions as to how to proceed. Having laid the groundwork with public information, the Consolidated Plan Action Plan and Final Statement of Distribution is as follows:

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**Business and Community Development Division***Introduction:*

Consolidated Plan Action Plan and Final Statement for Distribution of the Supplemental Flood Disaster Appropriation (Public Law 105-18) for the Small Cities Community Development Block Grant Program. Supplemental Flood Disaster funds appropriated to the CDBG program made available to the State will be distributed as follows:

It is the goal of the Minnesota Department of Trade and Economic Development (DTED) to award supplemental flood related CDBG funds to eligible recipients, enabling them to begin flood-related projects in a timely manner and complete the projects within the next 12 to 24 months. Consistent with statutory language and direction from the U.S. Department of Housing and Urban Development (HUD), DTED will distribute funds exclusively to CDBG-eligible communities that were damaged by flooding associated with the severe storms which resulted in three Presidential disaster declarations (November 14, 1996 for icestorms; January 3, 1997 for snowstorms; and March 21, 1997 for flooding).

Eligible applicants are limited to cities, counties and towns located in all the presidentially- declared disaster counties dating back to November 14, 1996 up to March 21, 1997. In adhering to HUD guidelines, emphasis will be given to financing eligible buyouts of flood-prone properties, housing rehabilitation activities and critical eligible municipal infrastructure such as waste, storm and drinking water projects. Business retention projects will also be eligible. (NOTE: In some cases, all three of these activities will be given priority because of the extensive rebuilding required in some areas.)

The National Objective for which DTED intends to qualify eligible projects is Alleviation of an Urgent Community Development Need. In order to qualify for this National Objective, applications must demonstrate the following:

- that the damage poses an immediate and urgent threat to the health and safety of local residents and;
- the applicants' efforts to secure FEMA and/or SBA fund have been exhausted; and
- that the local applicants do not have sufficient financial resources to correct the health and safety threats without the help of CDBG funds.

NOTE: It is requested by DTED that the low-to-moderate income eligibility requirement be waived for this disaster declaration. Since these funds are reserved for applicants who have been unable to secure assistance from FEMA and/or SBA, a waiver will assure that applicants who lack affordability may be assisted. The 1997 supplemental appropriations will, in the aggregate, probably benefit at least 51 percent low-to-moderate income persons. HUD has indicated that low and moderate income requirements may be waived upon receipt of substantial justification from the state. DTED will require eligible grantees to maintain and submit demographic information, including the number and percentage of low-to-moderate income persons served by the flood disaster funds.

METHOD OF DISTRIBUTION OF CDGB FUNDS

HUD has produced a priority scheme for CDBG flood recovery funding for several Minnesota localities. Those localities are:

- Breckenridge
- Polk County
- Norman County
- Moorhead
- Ada
- Big Stone County
- Chippewa County and Montevideo
- Warren and Marshall County

Breckenridge

The City of Breckenridge has received a CDBG grant of \$8,094,300. for buyouts, demolition, housing rehabilitation, commercial rehabilitation, infrastructure replacement and flood control structures. A grant agreement has been executed. These funds are awarded in conjunction with funding from FEMA and SBA, as well as state agencies including the Minnesota Department of Natural Resources (DNR) and the Minnesota Housing Finance Agency (MHFA).

Polk County

The Minnesota Recovers Disaster Task Force has committed \$3.2 million in recovery funds to Polk County for buyout projects. Seventy-five percent of these funds will come from FEMA. The remaining amount will be split evenly between CDBG funds and funds from the DNR.

State Grants & Loans

In addition, the Task Force recently received a supplemental application for housing rehabilitation assistance. The Task Force intends to award funds for rehab from the state's CDBG allocation and from state funds through MHFA by the week of September 15, 1997.

Norman County

The Minnesota Recovers Disaster Task Force recently received an application from Norman County for buyouts and housing rehabilitation. Those projects will be funded through a variety of sources including CDBG, SBA, FEMA, DNR and MHFA. All funding decisions will be coordinated.

Moorhead

The City of Moorhead has received a CDBG grant of \$228,713. This amount represents 25 percent of a buyout project being funded primarily by FEMA. A grant agreement is being executed. In addition, CDBG funds will be used to finance Moorhead's local share for a variety of infrastructure projects being funded primarily by DNR. The combination of FEMA, SBA, CDBG and DNR funds should substantially return Moorhead to pre-flood condition and prevent future damage.

CDBG funds will also be used on buyouts and housing rehabilitation projects in adjoining Oakport Township. Oakport Township is where most of the Moorhead area damage occurred. The City of Moorhead received relatively little flood damage. While the residents of Oakport Township technically reside outside the City of Moorhead, they have a Moorhead mailing address.

Ada

The City of Ada has received a CDBG grant of \$1,275,000 for buyouts, housing rehabilitation and commercial rehabilitation. A grant agreement is being executed. The CDBG are being coordinated with funds from FEMA, SBA, DNR and MHFA. In addition, CDBG funds will also be committed to infrastructure repair.

Big Stone County

Big Stone County and the City of Ortonville have received CDBG grants totaling \$2.7 million for buyouts, housing rehabilitation and flood control projects. Grant agreements are being executed. These funds will be coordinated with funds from FEMA, SBA, NRCS, DNR and MHFA.

Chippewa County and Montevideo

The Cities of Montevideo, Granite Falls and Chippewa County have received CDBG grants totaling \$1.6 million for buyouts, housing rehabilitation, commercial rehabilitation and infrastructure for new housing construction. Grant agreements with Montevideo and Granite Falls are being executed. CDBG funds will be coordinated with funds from FEMA, SBA, DNR, MHFA and the Greater Minnesota Housing Fund.

Warren and Marshall County

The City of Warren has received a CDBG grant of \$1,250,000 for buyouts, housing and commercial rehabilitation. A grant agreement is being executed. As with all previously mentioned projects, CDBG funds will be used as the local share for FEMA funds. Other funds will come from DNR, SBA and MHFA.

The Minnesota Recovers Disaster Task Force recently received an application from Marshall County for buyouts and housing rehabilitation. CDBG funds will be awarded to the County for these activities by the week of September 15, 1997. CDBG funds will be coordinated with funds from FEMA, SBA, DNA and MHFA.

In all cases, grant agreements have been issued from the state's first supplemental disaster grant. In no case do the amounts awarded to date represent the final amount of CDBG assistance for the above designated cities and counties. As cost estimates and actual costs become better known, grant awards can change.

Citizen Participation Process:

In order to provide the public input into the process of recovery, the Governor's Recovery and Redevelopment Planning Council was formed. This policy setting council is composed of membership from local governments in the affected regions, members of the financial community and state government officials.

The Council met on a regular basis and oversaw the work of the Minnesota Recovers Disaster Task Force. These two groups conducted information gathering bus tours in the affected regions, meeting with local elected officials and citizens along the way. Several local governments conduct weekly public information meetings on the recovery efforts. City staff in East Grand Forks meets every Wednesday night to take public input and inquiries. Additionally, a weekly telephone conference call between city staff from East Grand Forks and the Minnesota Recovers Disaster Task Force is conducted every Wednesday morning to discuss public concerns. For flood disaster fund distribution, the Minnesota Recovers Disaster Task Force informed eligible applicants of the availability of funds through a variety of outlets. These included a 24-hour disaster recovery telephone hotline, press releases and a broadcast fax to each affected city, county, regional development commission, community development commission and business

association that were in the federally declared disaster counties. This was followed with direct mail, which was followed by a number of personal visits from the Minnesota Recovers Disaster Task Force members explaining the application process. Additionally, local media outlets were provided comprehensive information on affected communities.

A single Minnesota Recovers Disaster Task Force “one-stop application” process was developed, enabling communities to access financial assistance from both federal and state agencies. The following are some of the categories:

- rental and owner-occupied housing rehabilitation and flood proofing;
- infrastructure replacement and repairs;
- property acquisition and demolition (buyouts — see attached);
- new housing construction;
- flood mitigation replacement, repairs and construction.

A very high priority for the Minnesota Recovers Disaster Task Force is the buyout of structures damaged beyond repair by the disaster. Funds used to conduct the program will come from:

- FEMA — Hazard Mitigation Grant Program;
- HUD — Community Development Block Grants; and
- State of Minnesota — bonding

Priority projects will include:

- substantially damaged buildings within the 100-year floodplain where the building owners had flood insurance;
- substantially damaged buildings within the floodplain where the owner did not have flood insurance; and
- substantially damaged buildings outside the 100-year floodplain.

As of September 2, 1997, 86 cities, counties or regional development commissions have applied for assistance. The requests total \$640 million. The Minnesota Recovers Disaster Task Force has made an initial review of all the applications. New applications will still be considered. No deadline or grant cycle applies. To ensure funding decisions are made in a minimum amount of time, DTED will rely on the recommendations from the Minnesota Recovers Disaster Task Force, which is made up of 20 federal and state agencies. The Minnesota Recovers Disaster Task Force subdivided into five sub-committees initially:

- infrastructure and economic development;
- housing;
- mitigation and flood control;
- ag-erosion;
- health and human services.

The executive committee of the Task Force meets every Thursday morning to review applications and make recommendations with respect to financing, rejecting or holding applications for additional information. The agencies represented on the executive committee are:

- Minnesota Department of Commerce;
- Minnesota Department of Emergency Services;
- Minnesota Housing Finance Agency;
- Minnesota Department of Trade and Economic Development;
- U.S. Department of Housing and Urban Development;
- U.S. Economic Development Authority;
- Federal Emergency Management Agency;
- Minnesota Department of Natural Resources;
- Minnesota Department of Health; and
- Board of Water and Soil Resources.

Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, and final submission date of completed contract proposal.

In accordance with *Minnesota Rules Part 1230.1910*, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of up to 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612) 296-2600 or [TTY (612) 297-5353 and ask for 296-2600].

These agencies perform two essential functions: First, agencies such as the Minnesota Departments of Natural Resources and Health, review the applications for technical feasibility and compliance with necessary environmental or construction regulations. Second, agencies with funding programs, such as DTED or Minnesota Housing Finance Agency, review the applications for compliance with specific state and federal funding requirements.

This multi-agency task force approach results in approval of projects that will 1) solve problems created or exacerbated by the recent disasters in a coordinated and comprehensive manner, 2) expedited with reasonable assurances that the financed projects meet funding requirements as well as broader regulatory requirements, 3) be technically feasible.

DTED will continue to obligate funds to projects until all disaster funds have been designated. DTED intends to take full advantage of all waivers associated with the flood disaster funds. DTED will not fund projects opposed by HUD staff who participate in task force meetings. Also, environmental and historical reviews will be completed as they are become part of the process.

Public access to records

These and all other records will be accessible to the public. DTED will complete and publish a Performance Evaluation Report documenting the use of supplemental disaster related CDBG funds. Additionally, all records related to the use of the funds (except those protected by data privacy laws) are public records and are available to the public on demand.

Monitoring standards

DTED has created and implemented a monitoring program for the use of its annual allocation of CDBG funds. This monitoring program was created with the assistance of HUD field staff and its use has been reviewed and approved by HUD field staff during previous monitoring visits. DTED intends to utilize the same procedures for monitoring supplemental disaster assistance recipients.

Where waivers of CDGB requirements have been granted, monitoring forms will be amended to reflect the waivers. HUD field staff will be asked to provide technical assistance on the completion of the amended forms.

Public/private leverage on CDBG funds

DTED, through the Minnesota Recovers Disaster Task Force, will leverage the use of other public and private funds to the maximum extent possible. The purpose of the Task Force is to provide comprehensive recovery funding in a cooperative and coordinated manner. Federal, state and some private resources are available for distribution by the Task Force member agencies. The supplemental CDBG funds will leverage more than \$120 million in state resources that have been appropriated. Supplemental CDBG funds also will leverage over \$30 million in FEMA, HMGP funds and approximately \$100 million in SBA funds. Private resources of up to \$15 million have already been made available by foundations for housing reconstruction. Further, bank financing will be a regular component of economic development projects. While the full amount of other public and private resources are unknown at this time, the Minnesota Recovers Disaster Task force allocation process will assure that public and private funds are directed to projects with the greatest need for assistance and with the concurrence of regulatory agencies.

Professional, Technical & Consulting Contracts

Department of Administration

Communications.Media - Minnesota's Bookstore

Notice of Availability of "Awards Report" for Awarded Professional, Technical, and Consulting Contracts

An "Awards Report" of professional, technical, and consulting contracts, published as open for bid in this *State Register*, is available as a subscription service. This information can be useful to contractors preparing and submitting proposals in response to "Requests for Proposals" appearing in the "*State Register*."

The report lists the item put out for bid, the agency requesting proposals, the contract winner, the amount, the beginning and end dates of the contract, and the duration of the contract. The "Awards Report" is published each month listing the previous month's awards of contracts and RFPs that appeared in the Monday edition of the "*State Register*" magazine. Reports are available only in hard copy format and are mailed first class to subscribers.

"Awards Reports" cover six-months and cost \$75.00 per subscription. Single copies cost \$15.00, plus \$3.00 for shipping. Order Stock # 99-43 for individual copies, or Stock # 90-15 for a six-month subscription. To order, call (612) 297-8774, or toll-free 1-800-657-3757, or FAX your order using VISA, MasterCard, American Express, or Discover Card to (612) 297-8260.

Office of Administrative Hearings

Notice of Request for Proposal for Court Reporting and Tape Transcription

The State of Minnesota will be entering into contracts to provide services to all State agencies for court reporting and tape transcription for the two-year period from January 1, 1998 through December 31, 1999. To receive a Request for Proposal, contact Sandra Haven, Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401 (telephone 612/341-7642, TDD: 612/341-7346). Final proposals must be received by October 24, 1997. The Request for Proposal can also be furnished in large type or on a cassette tape. An Equal Opportunity Employer.

Department of Corrections

Request for Proposal: Professional / Technical Physician Services

The Minnesota Department of Corrections, Health Care Unit, is requesting proposals for professional / technical physician services at the Minnesota correctional facility in Moose Lake. Services to include physical examinations, primary and follow-up services, secondary and tertiary referrals, health maintenance and health education. Physician will also be required to participate in scheduled meetings as directed by the Medical Director or Health Care Administrator. The physician will work with the DOC as it automates the medical system which includes medical records, telemedicine and automated pharmacy services.

For an RFP or additional information, please call or write to:

Mr. Dana Baumgartner
Health Care Administrator
Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, Minnesota 55108-5219
Telephone: 612-642-0248

Proposals are due no later than 4:00 p.m. on Friday, October 3, 1997. No late proposals will be accepted.

Department of Employee Relations

Request for Proposal for Long-Term Care Insurance Consultant

The Minnesota Department of Employee Relations (DOER) is requesting proposals from qualified vendors to assist in developing an optional long-term care insurance program. Specifically, DOER is requesting assistance in meeting the following objectives:

1. Determine which present and former public sector employees and family members should be offered the opportunity to purchase long-term insurance.

Non-State Public Bids, Contracts & Grants

2. Explore the feasibility of offering coverage to other selected groups.
3. Define the scope of coverage to be offered.
4. Determine the appropriate strategy for providing coverage.
5. Contract with an appropriate vendor to administer the coverage.

A complete Request for Proposal containing further details may be obtained by contacting:

Paul Strebe, LTCI Project Coordinator
Address: Minnesota Department of Employee Relations
658 Cedar St.
St. Paul, MN 55155
Phone: 612/282-2438
Fax: 612/297-5471
E-mail: paul.strebe@state.mn.us

A proposers' conference is scheduled for 9:00 a.m. on Thursday, October 9, 1997 at DOER (Attendance is not mandatory).

The deadline for submitting proposals is 3:00 p.m., Monday, November 3, 1997.

Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Department of Human Services

Willmar Regional Treatment Center

Notification of Request for Proposal for Psychiatric Services

NOTICE IS HEREBY GIVEN that the Willmar Regional Treatment Center, Residential Facilities Administration, Department of Human Services, is seeking services which are to be performed as requested by the Administration of the Willmar Regional Treatment Center. The following contract will be written for the period November 1, 1997 through June 30, 1998.

1. Psychiatric Services needed to serve the needs of the clients at Willmar Regional Treatment Center. Estimated cost not to exceed \$75,000 yearly. Responses must be received by October 3, 1997. Direct inquires to: Mr. Stephen Grams, Business Manager; Willmar Regional Treatment Center; Box 1128; Willmar, MN 56201 (320) 231-5396

Iron Range Resources and Rehabilitation Board

Real Estate Sales and Marketing

Notice of Request for Proposals from Real Estate Firms to Assist in Marketing/Sales of Single Family Golf Course Lots

The Iron Range Resource and Rehabilitation Board (IRRRB) is seeking proposals from experienced real estate firms to assist in the marketing and selling of nineteen single-family golf course lots adjacent to and overlooking its Giants Ridge Golf Course located near Biwabik, Minnesota. The firm(s) receiving this proposal must be licensed to sell real estate in the state of Minnesota.

To receive a full request for proposal please call or write:

Iron Range Resources and Rehabilitation Board
Shirley Robinson
P.O. Box 441
Eveleth, MN 55743
(218) 744-7400

Responders with questions about this request for proposal may contact Shirley Robinson at the number above, Other state personnel are not authorized to discuss this request for proposal.

Proposals must be submitted no later than 3:00 p.m. Wednesday, October 1, 1997.

Metropolitan Council

Notice of Request for Equipment Prequalification: Centrifuges and Gravity Belt Thickeners for Blue Lake WWTP Thickening/Dewatering Facilities MCES Project Number 910210

NOTICE IS HEREBY GIVEN that the Metropolitan Council Environmental Services (MCES) will receive submittals for centrifuges and gravity belt thickeners (Goods) from manufacturers or their authorized representatives (Vendors), for the purpose of prequalifying Goods for the above referenced project. Prequalification submittals will be received at the MCES's office at Mears Park Centre, 230 East Fifth Street, St. Paul, MN until Noon on Wednesday, October 8, 1997.

The Goods will be procured and installed by others under a separate Design/Build contract with the MCES for the Blue Lake WWTP Thickening/Dewatering Facilities project.

Copies of the Prequalification Requirements and Documents may be obtained from the MCES office referenced above, Attn: Contracts and Documents Administrative Assistant.

A pre-submittal informational meeting is scheduled to be held at the Administration Building Conference Room at the Blue Lake WWTP, 6949 Highway 101, Shakopee, MN, beginning at 1:30 p.m. on Friday, September 19, 1997. All Vendors are encouraged to attend.

Direct inquiries to MCES's Project Manager, Bill Johnson at (612) 602-1168.

Minnesota Counties Information Systems

Notice of Request for Proposals for Analysis and Design of Windows 95™ Versions of Two Software Applications

Minnesota Counties Information Systems (MCIS), is soliciting proposals from qualified firms for the analysis and design of Windows 95™ versions of two software applications: the County Recorder Indexing System (CRIS) and the Timber Sales Management System (TSMS). Such proposals shall address the following main objectives:

Development of two separate, but probably similar, detailed design documents for the purpose of rewriting the existing DOS-based applications into Windows 95™ versions, incorporating all of the current features and functional capabilities, redesigning several areas for enhancement, as well as incorporating new designs for additional features and functions currently not part of such applications. Some of these features and functions are described in Part 2 of this RFP. The detailed design documents should include work plan schedules and cost estimates to perform the actual development of these applications. The overall tentative time frame for the design of these applications is as follows:

Design Phase:

September 15, 1997	Publish the RFP
October 31, 1997	Response deadline for the RFP
November 30, 1997	Contract negotiated with successful RFP vendor
February 6, 1998	Delivery of design documents
February 28, 1998	Final acceptance of design documents

For a complete RFP, please contact:

MCIS
413 SE 7th Avenue
Grand Rapids, MN 55744
(218) 326-0381 ext. 10

Minnesota Historical Society

Notice of Request for Bids for Replacement of Roof at the Lindbergh Visitors Center Little Falls, Minnesota

The Minnesota Historical Society is seeking bids from qualified firms and individuals to provide all labor, materials equipment, and supplies for the installation of a built-up roof. Plus, below-grade waterproofing of retaining wall construction and execution on the Lindbergh Visitor Center according to specifications, instructions to bidders, contract, and this request for bids.

The Request for Bids is available by calling or writing Deane M. Roe, Contracting Officer, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102. Telephone (612) 297-5863.

A pre-bid meeting will be conducted on September 17, 1997 at 11:30 a.m.. Bids must be received not later than 2:00 p.m. Central Time, September 25, 1997.

Complete Specifications and details concerning submission requirements are included in the Request for Bids.



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