

CHAPTER 237

TELEPHONE AND TELEGRAPH COMPANIES

Sec.		Sec.	
237.01	Telephone company defined.	237.22	Change annual depreciation charge.
237.02	Under department of public service.	237.23	Companies may purchase property of other companies.
237.03	Scope of law.	237.24	Transcribed copy of record, expense.
237.04	Wires crossing or paralleling lines of public utilities; regulations.	237.25	Appeals from decisions of department.
237.05	Enforcement of orders and regulations.	237.26	Order final and conclusive.
237.06	Rates to be fair and reasonable.	237.27	Attorney general to compel obedience.
237.07	Schedule of rates filed.	237.28	Burden of proof.
237.08	Reasonable rates fixed.	237.29	Companies to pay expense of investigations and hearings.
237.081	Summary investigations of inadequate service.	237.30	Telephone investigation revolving fund.
237.09	Discrimination prohibited.	237.33	Town boards may construct telephone systems for fire protection.
237.10	Uniform rules.	237.34	Town telephone lines outside corporate limits.
237.11	Inspection of books of telephone companies in case of failure to make reports.	237.35	Tax levy for construction.
237.12	Connections between telephone companies discontinued only on order.	237.36	Rentals fixed.
237.13	Telephone companies to permit physical connection.	237.37	Bonds to construct.
237.14	Free or reduced rates to officers.	237.38	Local exchanges shall permit connection.
237.15	Authority delegated.	237.39	Private telephone lines sold to town.
237.16	Authority for constructing telephone lines and exchanges.	237.40	Management.
237.17	Extension of long distance lines.	237.41	Telegraph companies common carriers.
237.18	Surrendering of license; new authority.	237.42	Delivery of message.
237.19	Municipalities may operate telephone exchanges.	237.43	Precedence of messages.
237.20	Notice to department and procedure.	237.44	Liability for damages.
237.21	Valuation of telephone property.	237.45	Telephone and telegraph lines constructed.
		237.46	Violation a gross misdemeanor.
		237.47	Alarm transmission telephone devices; regulations.

237.01 TELEPHONE COMPANY DEFINED. The term "telephone company," as used in this chapter, means and applies to any person, firm, association or any corporation, private or municipal, owning or operating any telephone line or telephone exchange for hire, wholly or partly within this state, or furnishing any telephone service to the public.

[1915 c 152 s 2] (5287)

237.02 UNDER DEPARTMENT OF PUBLIC SERVICE. The department of public service, now existing under the laws of this state, is hereby vested with the same jurisdiction and supervisory power over telephone companies doing business in this state as it now has over railroad and express companies; and, wherever the term "department" is used in this chapter, it shall mean the department of public service.

[1915 c 152 s 1; 1971 c 25 s 67] (5286)

237.03 SCOPE OF LAW. Except as otherwise provided in this chapter, all the provisions of Revised Laws 1905, Chapter 28, and acts amendatory thereof applying to railroad and express companies, shall insofar as the same are applicable apply also to telephone companies.

[1915 c 152 s 3] (5288)

237.04 WIRES CROSSING OR PARALLELING LINES OF PUBLIC UTILITIES; REGULATIONS. The department shall determine and promulgate reasonable regulations covering the maintenance and operation, also the nature, location, and character of the construction to be used, where telephone, telegraph, electric light, power, or other electric wires of any kind cross, or more or less parallel the lines of any railroad, interurban railway, or any other public utility; and, to this end, shall formulate and from time to time, issue general regulations covering each class of construction, maintenance, and operation of such electric wire crossing, or paralleling, under the various conditions existing; and the department, upon the complaint of any person, railroad, interurban railway, or other public utility claiming to be injuriously affected or subjected to hazard by any such crossing or paralleling lines constructed or about to be constructed, shall, after a hearing, make such order and prescribe such terms and conditions for the construction, maintenance, and operation of the lines in question as may be just and reasonable.

[1925 c 152 s 1; 1971 c 25 s 67] (4718-1)

237.05 ENFORCEMENT OF ORDERS AND REGULATIONS. The department shall see that the provisions of section 237.04 are enforced; and, for that purpose shall have power to cause the removal or reconstruction of such telephone, telegraph, electric light, power, or other electric wires of any kind crossing or paralleling such other lines and not in accordance with the orders, rules, and regulations issued by the department.

[1925 c 152 s 2; 1971 c 25 s 67] (4718-2)

237.06 RATES TO BE FAIR AND REASONABLE. It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful. Any telephone company organized after January 1, 1949, may include in its charges a reasonable deposit fee not exceeding \$50 for facilities furnished.

[1915 c 152 s 4; 1957 c 523] (5289)

237.07 SCHEDULE OF RATES FILED. It shall be the duty of every telephone company to file with the department a schedule of its exchange rates, tolls, and charges for every kind of service, together with all rules, regulations, and classifications used by it in the conduct of the telephone business, all of which shall be kept on file by the department subject to public inspection. The department shall require each telephone company to keep open for public inspection at designated offices, so much of these schedules and regulations as it deems necessary for the public information.

[1915 c 152 s 5; 1971 c 25 s 67] (5290)

237.08 REASONABLE RATES FIXED. When such rates or schedules are found to be unreasonable by the department, upon its own motion or upon complaint, it shall prescribe reasonable rates to take the place of those found unreasonable and such new rates shall be filed in place of the rates or schedule superseded. In determining the valuation of any telephone property for the purpose of prescribing reasonable rates, the department shall give due consideration to evidence of the cost of the property when first devoted to public use, prudent acquisition cost to the telephone company less depreciation on each, current values thereof and any other factors or evidence material and relevant thereto.

No rates filed with the department shall be changed by any telephone company without an order of the department sanctioning the same. It shall be unlawful for any telephone company to collect or receive a greater or less rate or charge for any intrastate service rendered by it than the rate or charge named in the schedules on file with the department, and no new rate shall take effect until the date named by the department, which shall not be less than ten days after it is filed.

[1915 c 152 s 6; 1957 c 917; 1971 c 25 s 67] (5291)

237.081 SUMMARY INVESTIGATIONS OF INADEQUATE SERVICE. Subdivision 1. Whenever the commission shall believe that any service is inadequate or cannot be obtained or that an investigation of any matter relating to any telephone service should for any reason be made, it may on its own motion summarily investigate the same with or without notice.

Subd. 2. If, after making such summary investigation, the commission becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matters investigated, it shall set a time and place for a hearing.

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

Subd. 4. Whenever the commission shall find that any service which can be reasonably demanded cannot be obtained, the commission shall determine and by order fix reasonable regulations, acts, practices or service to be furnished, imposed, observed and followed in the future in lieu of those found to be unreasonable, inadequate or otherwise unlawful, and shall make such other order respecting such regulation, act, practice or service as shall be just and reasonable.

Subd. 5. A copy of such order shall be served upon the person against whom it runs or his attorney, and notice thereof shall be given to the other parties to the proceedings or their attorneys.

[1974 c 40 s 1]

237.09 DISCRIMINATION PROHIBITED. No telephone company, or any agent or officer thereof, shall, directly or indirectly, in any manner, knowingly or wilfully, charge, demand, collect, or receive from any person, firm, or corporation, a greater or less compensation for any intrastate service rendered or to be rendered by it than it charges, demands, collects, or receives from any other firm, person, or corporation for a like and contemporaneous intrastate service under similar circumstances.

[1915 c 152 s 7] (5292)

237.10 UNIFORM RULES. It shall be the duty of the department to prescribe uniform rules and classifications pertaining to the conduct of intrastate telephone business and a system of accounting to be used by telephone companies in transacting this business, and it shall prescribe and furnish blanks and forms for reports, all of which shall conform as nearly as practicable to the rules, classifications, accounting systems, and reports prescribed by the Federal Communications Commission for the interstate business of like size companies.

The department shall by correspondence or conference where necessary use its best endeavors toward establishing uniformity in practice in all matters pertaining to regulation of the business of telephone companies between the federal government and state government of this and adjacent states.

[1915 c 152 s 8; 1969 c 1031 s 10; 1971 c 25 s 67] (5293)

237.11 INSPECTION OF BOOKS OF TELEPHONE COMPANIES IN CASE OF FAILURE TO MAKE REPORTS. Every telephone company subject to the provisions of this chapter, wherever organized, shall keep an office in this state, and make such reports to the department as it shall from time to time require. All books, records, and files and all of its property shall be at all times subject to inspection by the department. It shall close its accounts and take therefrom a balance sheet on December 31 of each year, and on or before May 1 following, such balance sheet, together with such other information as the department shall require, verified by an officer of the telephone company, shall be filed with the department.

In the event that any telephone company shall fail to file its annual report, as provided by this section, the department is authorized to make such an examination of the books, records, and vouchers of the company as is necessary to procure the necessary data for the annual report and cause the same to be prepared. The expense of procuring this data and preparing this report shall be paid by the telephone company failing to report, and the amount paid shall be credited by the state treasurer to funds in his hands appropriated for the expense of the department.

The department is authorized to force collection of such sum by an action at law in the name of the department.

[1915 c 152 s 9; 1919 c 183 s 1; 1961 c 341 s 1; 1971 c 25 s 67] (5294)

237.12 CONNECTIONS BETWEEN TELEPHONE COMPANIES DISCONTINUED ONLY ON ORDER. When public convenience requires the same, every telephone company shall, for a reasonable compensation, permit a physical connection or connections to be made, and telephone service to be furnished between any telephone exchange system operated by it, and the telephone toll line or lines operated by another company, or between its telephone toll line or lines and the telephone exchange system of another telephone company, or between its toll line and the toll line of another company, whenever such physical connection or connections are practicable and will not result in irreparable injury to the telephone system so compelled to be connected. The term "physical connection," as used in this section, means such number of trunk lines or complete wire circuits and connections as may be required to furnish reasonable and adequate service between such telephone lines and exchanges and shall not be deemed to provide for any connection whereby one line or circuit is to be bridged upon another line or circuit. In case of failure of the telephone companies concerned to allow or agree upon such physical connection or connections, or the terms and conditions upon which the same shall be made, application may be made to the department for an order requiring such connection and fixing the compensation, terms and conditions thereof, and if after investigation and hearing the department shall find that such physical connections will not result in irreparable injury to such telephone properties, it shall by order direct that such connections be made, and prescribe reasonable conditions and compensation therefor and for the joint use thereof, and by whom the expense of making and maintaining such connection or connections shall be

paid. When application is made to the department requesting physical connection it shall be presumed that such connection is necessary, and that the public convenience will be promoted thereby, and the burden of overcoming such presumption shall be upon the party resisting such application. The telephone companies so connecting shall give service over the connecting line or lines without preference to or discrimination against any service or telephone company whatever.

Wherever a physical connection or connections exist between any telephone exchange system operated by a telephone company and the toll line or lines operated by another telephone company or between its toll line or lines and the telephone exchange system of another telephone company, or between its toll line and the toll line of another telephone company, neither of the companies shall cause such connection to be severed or the service between the companies to be discontinued without first obtaining an order from the department upon an application for permission to discontinue such physical connection. Upon the filing of an application for discontinuance of such a connection, the department shall investigate and ascertain whether public convenience requires the continuance of such physical connection, and if the department so finds, shall fix the compensation, terms and conditions of the continuance of the physical connection and service between the telephone companies.

[1915 c 152 s 10; 1919 c 183 s 2; 1971 c 25 s 67] (5295)

237.13 TELEPHONE COMPANIES TO PERMIT PHYSICAL CONNECTION.

When public convenience requires the same, every telephone company operating an exchange in any city shall, for a reasonable compensation, permit a physical connection or connections to be made and telephone service to be furnished between any telephone exchange system operated by it and the telephone line or lines owned and operated by another telephone company, serving rural subscribers located within a territory reasonably tributary to and outside of the corporate limits of the city in which the telephone company is operating an exchange, whenever such physical connection or connections are practicable and will not result in irreparable injury to the telephone system so compelled to be connected. The term "physical connections," as used in this section, means such number of complete wire circuits and connections as may be required to furnish reasonable and adequate service between such telephone lines and exchanges. In case of failure of the telephone companies concerned to allow or agree upon such physical connection or connections, or the terms and conditions upon which the same shall be made, application may be made to the department for an order requiring such connection and fixing the compensation, terms and conditions thereof, and if after investigation and hearing the department shall find that such physical connections will not result in irreparable injury to such telephone properties, it shall by order direct that such connections be made, and prescribe reasonable conditions and compensation therefor and for the joint use thereof, and by whom the expense of making and maintaining such connection or connections shall be paid. The public convenience shall not be deemed to demand a connection between an exchange and any rural telephone line where, by existing connections or telephone lines, adequate service is already furnished or available to the inhabitants of the territory affected. The telephone companies so connecting shall give service over the connecting line or lines without preference to or discrimination against any service or telephone company whatever.

[1921 c 354 s 1; 1971 c 25 s 67; 1973 c 123 art 5 s 7] (5296)

237.14 FREE OR REDUCED RATES TO OFFICERS. A telephone company may furnish service free or at reduced rates to its officers, agents, or employees in furtherance of their employment, but it shall charge full schedule rates without discrimination for all other services. Nothing herein shall release any telephone company from carrying out any contract now existing between it and any municipality for the furnishing of any service free or at reduced rates. Any contract for telephone service, at discriminatory rates, other than those with municipalities, shall be terminated by the company as soon as the same becomes terminable by its terms.

[1915 c 152 s 11] (5297)

237.15 AUTHORITY DELEGATED. The department shall whenever it deems the same necessary determine the value of all the property of any telephone company devoted to the public use, and in so doing it shall, after notice to the telephone company, hold such public hearing as will give all interested parties a chance to furnish evidence and be heard. For the purpose of this chapter the department is authorized

to appoint engineers, examiners, experts, clerks, accountants, and other assistants as it may deem necessary at such rates of compensation as it may prescribe.

In the discharge of their duties such appointees shall have every power, of any inquisitorial nature granted in this chapter to the department. The department may conduct any number of investigations contemporaneously through its individual members or appointees, and may delegate to its individual members and employees the taking of all testimony on any investigation or hearing.

[1915 c 152 s 12; 1919 c 183 s 3; 1971 c 25 s 67] (5298)

237.16 AUTHORITY FOR CONSTRUCTING TELEPHONE LINES AND EXCHANGES. Subdivision 1. For the purpose of bringing about uniformity of practice, the department shall have the exclusive right to grant authority to any telephone company to construct telephone lines or exchanges for furnishing local service to subscribers in any municipality of this state, and to prescribe the terms and conditions upon which construction may be carried on, and whenever the department grants such authority, it shall be in the form of a permit of indeterminate duration — coupled with the right to the municipality to purchase the telephone plant within the city, as hereinafter provided. No lines or equipment shall be constructed or installed for the purpose of furnishing local rural or toll telephone service to the inhabitants or telephone users in any locality in this state, where there is then in operation in the locality or territory affected thereby another telephone company already furnishing such service, without first securing from the department a declaration, after a public hearing, that public convenience requires such proposed telephone lines or equipment; but the governing body of any municipality shall have the same powers of regulation which it now possesses with reference to the location of poles and wires so as to prevent any interference with the safe and convenient use of streets and alleys by the public.

Subd. 2. All telephone companies operating exchanges in the state of Minnesota as of the effective date of Laws 1961, Chapter 637, shall be entitled to receive a certificate of territorial authority from the department authorizing such company to continue to serve the areas presently included within the exchange boundaries as indicated by the exchange boundary maps now on record with the department provided however that such exchange boundaries shall be subject to review by the department upon the filing of a complaint by any interested party, the time for filing such complaints to be limited to 60 days after the passage of Laws 1961, Chapter 637. If more than one company files maps indicating service in the same territory, the department shall, after hearing, on reasonable notice to the interested parties, determine, from such evidence as it may reasonably require, which of such companies shall be entitled to a certificate of territorial authority. In making such determination, the department shall consider the ability of such company to furnish thereafter reasonably adequate service in the territory in question. Any company operating a switchboard that does not presently have a map on record with the department shall have three months from the effective date of Laws 1961, Chapter 637 to file such map showing the territory being served by such company.

Subd. 3. The style, size and kind of map, together with the information to be shown thereon, shall be as required by the rules and regulations prescribed by the department. Such rules and regulations shall indicate the time and place for filing such maps and shall require that such maps be kept current.

Subd. 4. No company shall construct or operate any line, plant or system, or any extension thereof, or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the department a determination that the present or future public convenience and necessity require or will require such construction, operation, or acquisition, and a new certificate of territorial authority; provided that this section shall not be construed to require a telephone company operating an exchange in Minnesota to secure a certificate for an extension within any territory within which such company has heretofore filed maps or for substitute facilities within such territories, or for extensions into territories contiguous to that already occupied by such company and not receiving similar service from another company if no certificate of territorial authority has been issued to or applied for by any other company.

Subd. 5. Any certificate of territorial authority may, after notice of hearing and a hearing, be revoked by the department, in whole or in part, for the failure of the holder thereof to furnish reasonably adequate telephone service within the area or areas determined and defined in such certificate of territorial authority.

Subd. 6. Nothing contained in this section shall be construed to require any telephone company operating exchanges in the state of Minnesota to render telephone service in any portion of any territorial area in which such telephone company does not render and does not propose to render telephone service.

[1915 c 152 s 13; 1925 c 184 s 1; 1961 c 637 s 1; 1971 c 25 s 67] (5299)

237.17 EXTENSION OF LONG DISTANCE LINES. Any telephone company may extend its long distance lines into or through any city of this state for the furnishing of long distance service only, subject to the regulation of the governing body of such city relative to the location of the poles and wires and the preservation of the safe and convenient use of such streets and alleys to the public, provided that if such lines are to furnish service between communities or localities then served by another company, a certificate of public convenience must first be obtained as required by section 237.16.

[1915 c 152 s 14; 1925 c 184 s 2; 1973 c 123 art 5 s 7] (5300)

237.18 SURRENDERING OF LICENSE; NEW AUTHORITY. Any telephone company operating under any existing license, permit, or franchise or which shall, before the taking effect of Laws 1915, Chapter 152, acquire any license, permit, or franchise, upon filing with the clerk of the municipality which granted such franchise, a written declaration that it surrenders such license, permit, or franchise, may receive in lieu thereof, an indeterminate permit, as defined in this chapter; and such telephone company shall thereafter hold such permit under all the terms, conditions, and limitations of this chapter. The filing of such declaration shall be deemed a waiver by such telephone company of the right to insist upon the fulfillment by any municipality of any contract theretofore entered into relating to any rate, charge, or service made subject to regulation by this chapter. Upon filing such written declaration by the telephone company, the clerk of the municipality shall file with the department a certificate showing that fact and the date thereof, and thereupon it shall receive an indeterminate permit from the department conferring the same rights as if originally granted under this chapter.

[1915 c 152 s 15; 1971 c 25 s 67] (5301)

237.19 MUNICIPALITIES MAY OPERATE TELEPHONE EXCHANGES. Any municipality shall have the right to own and operate a telephone exchange within its own borders, subject to the provisions of this chapter, and it may construct such plant, or purchase an existing plant by agreement with the owner, or where it cannot agree with the owner on price, it may acquire an existing plant by condemnation, as hereinafter provided, but in no case shall a municipality construct or purchase such a plant or proceed to acquire an existing plant by condemnation until such action by it is authorized by a majority of the electors voting upon the proposition at a general election or a special election called for that purpose, and if the proposal is to construct a new exchange where an exchange already exists, it shall not be authorized to do so unless 65 percent of those voting thereon vote in favor of the undertaking.

[1915 c 152 s 16] (5302)

237.20 NOTICE TO DEPARTMENT AND PROCEDURE. When a municipality decides in the manner above provided to acquire an existing plant by condemnation it shall give notice to the department whose duty it shall be thereupon to determine the just compensation which the owner of the plant is entitled to receive therefor from the municipality. Before deciding upon such compensation the department shall, at a public meeting which may be adjourned from time to time, hear all interested parties on the question involved. The department shall by order fix the compensation and furnish a copy of its order to the municipality and to the telephone company concerned. An appeal may be taken to the district court of the county wherein such plant is situated from that part of the order fixing the compensation to be paid, within 30 days, by either party, which appeal shall be tried the same as other appeals hereunder; if no such appeal is taken the order of the department shall become final at the end of 30 days; and when appeal is taken the decision of the district court or of the supreme court, if taken there from the district court, shall be final.

[1915 c 152 s 17; 1971 c 25 s 67] (5303)

237.21 VALUATION OF TELEPHONE PROPERTY. In determining the value of any telephone property for rate making purposes, no valuation shall be allowed upon

the value of any franchise granted by the state or any municipality where no payment was or is being made to the state or municipality on account thereof. The requirement as to reasonableness of rates shall apply to each exchange unit as well as to telephone plants as a whole. Provided, that in the case of a company operating a telephone system consisting of more than one exchange in the state, reasonableness of rates, as measured by earnings, shall be determined by a reasonable return from the total operations of the system within the state rather than by the return from individual exchanges or services. No telephone rates or charges shall be allowed or approved by the department under any circumstances, which are inadequate and which are intended to or naturally tend to destroy competition or produce a monopoly in telephone service in the locality affected.

Laws 1953, Chapter 25, shall have no effect on proceedings pending before the courts or the department of public service at the time of its enactment.

[1915 c 152 s 18; 1953 c 25 s 1,2; 1971 c 25 s 67] (5304)

237.22 CHANGE ANNUAL DEPRECIATION CHARGE. The department may fix and from time to time change the annual depreciation charge which shall be made by each telephone company which charge shall be sufficient to provide the amounts required over and above the expense of current maintenance, to keep its property in a state of efficiency corresponding to the needs and progress of the industry. Such depreciation fund shall be carried in a separate account and moneys in this fund may be invested and the income thereof returned to such depreciation fund or said moneys may be expended in renewals or in new construction.

[1915 c 152 s 19; 1971 c 25 s 67] (5305)

237.23 COMPANIES MAY PURCHASE PROPERTY OF OTHER COMPANIES.

It shall be unlawful for any telephone company, corporation, person, partnership, or association subject to the provisions of this chapter to purchase or acquire the property, capital stock, bonds, securities, or other obligations, or the franchises, rights, privileges, and immunities of any telephone company doing business within the state without first obtaining the consent of the department thereto; and telephone companies, corporations, persons, partnerships, or associations are hereby given the right with the consent of the department to purchase and acquire the property, capital stock, bonds, securities, or other obligations together with all franchises, rights, privileges, and immunities owned or enjoyed by said companies. The owner and the proposed purchaser of said property shall both join in the application filed with the department for the approval of such transfer, and in the case of a corporation desiring to sell all of its property it shall require a vote of a majority of its stockholders to ratify the same. Telephone companies may sell and dispose of any property not used by said telephone companies in the conduct of their business at the time of the sale without the consent of the department.

Nothing herein shall be deemed to prevent the holding of stock heretofore lawfully acquired or to prevent the acquisition of additional stock by any telephone company owning a majority of the stock of any telephone company.

[1915 c 152 s 20; 1919 c 183 s 4; 1945 c 143 s 1; 1971 c 25 s 67] (5306)

237.24 TRANSCRIBED COPY OF RECORD, EXPENSE. A full and complete record shall be kept by the department of all proceedings had before it upon any formal investigation or hearing and all testimony received or offered shall be taken down by the stenographer appointed by the department and a transcribed copy of such record shall be furnished to any party to such investigation upon the payment of the expense of furnishing said transcribed copy.

When an appeal is taken from any order of the department under the provisions of this chapter, the department shall forthwith cause a certified transcript of all proceedings had, of all pleadings and files, and all testimony taken or offered before it upon which such order was based, showing particularly what, if any evidence, offered was excluded, to be made and filed with the clerk of the district court where such appeal is pending.

[1915 c 152 s 21; 1919 c 183 s 5; 1971 c 25 s 67] (5307)

237.25 APPEALS FROM DECISIONS OF DEPARTMENT. Any party to a proceeding before the department or the attorney general may make and perfect an appeal from such order as provided in sections 216.24 and 216.25.

Upon such appeal being so perfected it may be brought on for trial at any time by either party upon ten days' notice to the other and shall then be tried by the court without the intervention of a jury, and determined upon the pleadings, evidence, and exhibits introduced before the department and so certified by it. At such trial the findings of fact made by the department shall be prima facie evidence of the matters therein stated, and the order shall be deemed prima facie reasonable, and if the court finds that the order appealed from is unjust, unreasonable, and not supported by the evidence, it shall make such order to take the place of the order appealed from as is justified by the record before it. If the court finds from an examination of the record that the department erroneously rejected evidence which should have been admitted, it shall remand the proceedings to the department with instructions to receive such evidence so rejected and any rebutting evidence and make new findings and return the same to the court for further proceedings. In such case the department after notice to the parties in interest shall proceed to rehear the matter in controversy, and receive such wrongfully rejected evidence and any rebutting evidence offered and make new findings, as upon the original hearing, and transmit the same and such new record, properly certified, to the court wherein the appeal is pending, whereupon the matter shall be again considered in the court in the same manner as in an original appeal. Either party may appeal to the supreme court from the judgment of the district court, as in other civil actions except that the appeal must be taken within 30 days from the date of notice of the entry of such judgment.

Where an appeal is taken to the supreme court the appellant shall cause a return to be made to the court within 30 days from the date of appeal, otherwise the appeal shall be deemed abandoned and may be dismissed upon motion of the respondent. When the return on the appeal is received by the clerk of the supreme court, the cause shall be placed on the calendar of the term then pending, or if none is then pending then of the one next ensuing and it shall be assigned and brought on for hearing as other causes on such calendar.

[1915 c 152 s 22; 1971 c 25 s 67] (5308)

237.26 ORDER FINAL AND CONCLUSIVE. If no appeal is taken from any order of the department, as above provided, then in all litigation thereafter arising between the state and any telephone company or between private parties and any telephone company, the order shall be deemed final and conclusive.

[1915 c 152 s 23; 1971 c 25 s 67] (5309)

237.27 ATTORNEY GENERAL TO COMPEL OBEDIENCE. When any telephone company fails to comply with any law of the state or any order of the department after it has become final, or any order or judgment of the district court or the supreme court in any cases taken to the courts, or either of them, on appeal, after such judgment or order has become final, it shall be the duty of the attorney general to apply to the district court in the name of the state in any county in which the plant of the telephone company, or any part thereof, is situated, for a mandatory injunction or other appropriate writ to compel obedience to the law, order, or judgment and the district court shall punish any disobedience of its orders in such enforcement proceedings as for contempt of court.

[1915 c 152 s 25; 1971 c 25 s 67] (5311)

237.28 BURDEN OF PROOF. In any investigation, action or proceeding arising under, or growing out of, an action initiated by the department upon its own motion, the burden of proof shall be upon the telephone company to establish the reasonableness of the existing rates.

[1937 c 426 s 1; 1971 c 25 s 67] (5311-1)

237.29 COMPANIES TO PAY EXPENSE OF INVESTIGATIONS AND HEARINGS. Subdivision 1. **Costs of investigations.** When the commission, upon its own motion, complaint, or application to it, and after a public hearing, in which a majority of the commissioners agree it is necessary through hearing or other action to investigate: (a) the value of any telephone property subject to its jurisdiction; (b) the adequacy or reasonableness of any telephone service or rate; (c) the cost of a proposed upgrading of service; or (d) telephone company revenues and expenses for rate making or other purposes, such telephone company which is the subject of the investigation shall be charged with and pay such portion of the compensation and expense of the commission, its officers, legal counsel, agents, and staff of the department of pub-

lic service, including legal counsel and employees temporarily employed, and all reasonable expenses and costs occasioned in sustaining in any court the determination or action of the department in such investigations, as is reasonably attributable to such investigations, pending or hereafter brought, provided an opportunity to be heard thereon shall first have been granted to such telephone company.

Subd. 2. Costs. The department shall ascertain the costs, including the compensation and expenses of the department, its officers, legal counsel, agents and employees, determine the amount to be paid by the telephone company, and render a bill therefor by registered mail to the telephone company. Such bill shall be rendered from time to time, but not more often than monthly, during the progress before the department of such investigation, valuation, or revaluation, or upon its conclusion; provided, that a bill for the expenses and costs of any litigation directly involving any determination or order of the department in such investigations, valuations, or revaluations, shall be so rendered by the department from time to time during the pendency of such litigation or upon final adjudication by any court.

Subd. 3. When paid. The amount of such bills so rendered by the department shall be paid by the telephone company into the state treasury within 30 days from the date of rendition. The total amount which may be charged by the department to any telephone company under authority of this section in any calendar year shall not exceed one-half of one percent of such telephone company's gross operating revenues derived from intrastate telephone operations included within such investigation, valuation, or revaluation in the last preceding calendar year. The amount assessed against a telephone company, not paid within 30 days after such rendition, shall draw interest at the rate of six percent per annum.

[1937 c 426 s 2; 1939 c 333 s 1; 1971 c 25 s 67; 1975 c 25 s 1] (5311-2)

237.30 TELEPHONE INVESTIGATION REVOLVING FUND. The sum of \$25,000 is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to establish and provide a revolving fund to be known as the Minnesota Telephone Investigation Fund for the use of the department of public service and of the Attorney General in investigations, valuations, and revaluations under section 237.29. All sums paid by the telephone companies pursuant to section 237.29 shall be credited to the revolving fund and shall be deposited in a separate bank account and not commingled with any other state funds or moneys, but any balance in excess of \$25,000 in the revolving fund at the end of each fiscal year shall be paid into the state treasury and credited to the general fund. The sum of \$25,000 herein appropriated and all subsequent credits to said revolving fund shall be paid upon the warrant of the commissioner of finance upon application of the department or of the attorney general to an aggregate amount of not more than one-half of such sums to each of them, which proportion shall be constantly maintained in all credits and withdrawals from the revolving fund.

[1939 c 333 s 2; 1969 c 399 s 1; 1971 c 25 s 67; 1973 c 492 s 14] (5311-2a)

237.31 [Repealed, 1951 c 113 s 2]

237.32 [Repealed, 1975 c 25 s 2]

237.33 TOWN BOARDS MAY CONSTRUCT TELEPHONE SYSTEMS FOR FIRE PROTECTION. For the purpose of preventing the starting and spreading of forest or prairie fires and extinguishing the same, promoting public welfare, public health, and public safety, and facilitating the work of public improvements, the electors of any organized town of this state shall have power, at their annual town meeting or at any special town meeting called in the manner provided by law for special town meetings, to authorize the town to construct, or otherwise acquire, operate, and maintain a township telephone system, including the necessary poles, wires, telephones and telephone equipment, and by itself or in conjunction with one or more other towns to construct, equip, acquire, operate, and maintain a local telephone exchange, or one or more trunk lines of wires connecting such town or towns with the local exchange, or with a local exchange owned by some other corporation or persons, and to determine by ballot the amount of money to be raised for the purposes aforesaid. No such local exchange as herein provided for shall be constructed or maintained in municipalities where a local exchange is already in operation.

[1921 c 439 s 1] (5312)

237.34 TOWN TELEPHONE LINES OUTSIDE CORPORATE LIMITS. For the purpose of carrying out the provisions of section 237.33, any town may, by itself or in conjunction with one or more other towns, construct, maintain, acquire, own, or lease telephone lines, telephone equipment, or a local exchange outside the corporate limits of such town. The authority herein granted to any town to acquire, construct, or maintain, by itself, lines outside of its corporate limits shall be solely for the purpose of connecting telephones inside its corporate limits with a telephone exchange or switching center outside its corporate limits. The department may order any service to be extended across any township line to any person or concern adjacent thereto when, in the judgment of the department, such person or concern is entitled to telephone service and the same cannot be reasonably required of any other telephone company.

[1921 c 439 s 2; 1927 c 193 s 1; 1971 c 25 s 67] (5313)

237.35 TAX LEVY FOR CONSTRUCTION. When any town shall have authorized the construction, acquiring, operation, or maintenance of a telephone system, as set forth in sections 237.33 and 237.34, and determined the amount of money to be raised for that purpose, the town board of supervisors may levy a tax for the amount of money to be raised therefor. The annual tax levy for such purpose shall not exceed 3 1/3 mills upon the taxable property of such town.

[1921 c 439 s 3; 1949 c 238 s 1; 1973 c 773 s 1] (5314)

237.36 RENTALS FIXED. The electors of such town shall have power at their annual town meeting, or at any special meeting, to determine and, in case the electors fail to do so, the town board of supervisors shall determine, the manner of payment of rentals and charges to be paid per phone for operating a local exchange service; and such charges and all tolls payable by the users of such township system shall, in the first instance, be collected by the town board or under its direction. Any local exchange may, by agreement with any town board of supervisors, collect the long distance tolls directly from the users. No such town shall be subjected to or liable for any gross earnings or other tax by reason of moneys collected or property owned by it for such township telephone system. In case of the failure on the part of any user to pay such charges or tolls in the manner so provided, the town board may institute an action at law to collect such charges or tolls in arrears, and may also discontinue telephone service to such user, until all charges and tolls in arrears, the court costs, if any, taxed and allowed in an action to collect such arrears, and the reasonable cost of disconnecting the telephone from the general service, and reconnecting the same shall have been paid.

[1921 c 439 s 4] (5315)

237.37 BONDS TO CONSTRUCT. For the purpose of constructing, acquiring, operating, or maintaining a township telephone system or local exchange, as in sections 237.33 to 237.40 provided, any organized town is hereby authorized to issue and sell its bonds in the same manner, under the same procedure, and within the same limitations as provided by law for the issuance and sale of town road and bridge bonds; and the board of supervisors and their successors are hereby authorized to levy and in due form certify to the auditor of the county in which such town is situated, a tax upon the taxable property of the town to provide for the payment of installments of principal and interest as they mature, in the manner provided in the case of town road and bridge bonds.

[1921 c 439 s 5] (5316)

237.38 LOCAL EXCHANGES SHALL PERMIT CONNECTION. When public convenience requires the same, every local telephone exchange shall for a reasonable compensation permit a physical connection or connections to be made and telephone service to be furnished between such local telephone exchange system and township telephone system. In case of failure of the local telephone exchange to allow or agree upon such physical connection or connections, or the terms and conditions upon which the same shall be made, application may be made to the department for an order requiring such connection, and fixing the compensation, terms, and conditions thereof; and if after investigation and hearing the department shall find that such physical connections will not result in irreparable injury to such telephone properties, it shall by order direct such connections to be made and prescribe reasonable conditions and compensation therefor and for the joint use thereof, and by whom the expense of making and maintaining such connection or connections shall be paid. When

application is made to the department requesting physical connection, it shall be presumed that such connection is necessary and that the public convenience will be promoted thereby, and the burden of overcoming such presumption shall be upon the party resisting such application.

[1921 c 439 s 6; 1971 c 25 s 67] (5317)

237.39 PRIVATE TELEPHONE LINES SOLD TO TOWN. When, under the provisions of sections 237.33 to 237.40, a township telephone system shall be established in any township wherein any of the inhabitants of such town are already provided with telephone service furnished by any other telephone company or person, such town shall, when so requested by the telephone company or person, acquire from the telephone company all telephone equipment used by the telephone company or person in furnishing telephone service to the inhabitants of such town exclusively. For the purpose of determining the purchase price of such equipment application shall be made to the department whose duty it shall be thereupon to determine the just compensation which the owner of such telephone equipment is entitled to receive therefor from the town. Before deciding upon such compensation, the department shall at a public meeting, which may be adjourned from time to time, hear all interested persons of the question involved. The department shall by order fix the compensation and furnish a copy of its order to the town, and to the telephone company or person concerned. An appeal may be taken to the district court of the county wherein such town is situated from that part of the order fixing the compensation to be paid, within 30 days, by either party, which appeal shall be tried in the same manner as other appeals hereunder; if no such appeal is taken the order of the department shall become final at the end of 30 days, and when appeal is taken the decision of the district court or of the supreme court, if taken there from the district court, shall be final.

When, under the provisions of sections 237.33 to 237.40 a township telephone system has been established in any town, and it has been determined by the board of supervisors of the town to be for the best interest of public service and all persons concerned, to sell and transfer the township telephone system to any telephone company or person giving service organized for that purpose and qualified to purchase the system and operate the same, the board of supervisors shall have authority to sell, transfer, and convey the township telephone system upon such reasonable price and terms as it may determine; provided, that there shall be presented to the board of supervisors by a petition signed by at least 25 percent of the freeholders of the town asking the sale thereof; and, if such sale and agreed sale price be approved at an annual or special town meeting, it being stated in the notice of such annual and special meeting that the proposition will be considered thereat, by 66 percent of the legal voters attending such meeting.

If any township telephone lines are sold under the provisions of sections 237.33 to 237.40, and the town has theretofore issued bonds for the construction thereof, and any part of the bonds are then outstanding and unpaid, the entire consideration received from the sale, or such part as may be necessary, shall be held and applied only for the payment and retirement of such bonds.

[1921 c 439 s 7; 1929 c 150 s 1; 1971 c 25 s 67] (5318)

237.40 MANAGEMENT. The board of supervisors of any such town is hereby vested with all necessary authority to manage, maintain, and operate any township telephone system constructed under the provisions of sections 237.33 to 237.40; and, to that end, may, among other things, contract for the connection of such town lines with exchanges owned by others for switching, lease the system for a reasonable compensation, local exchange and toll connections, hire and discharge such employees as may be necessary to operate and maintain such township system, establish rules and regulations; and, subject to the approval of the department, establish and from time to time, change rates and charges covering the service furnished the users.

[1921 c 439 s 8; 1929 c 150 s 2; 1971 c 25 s 67] (5319)

237.41 TELEGRAPH COMPANIES COMMON CARRIERS. Persons and corporations engaged in the business of transmitting messages by telegraph lines are common carriers, and as such shall serve all persons, without discrimination or preference, for reasonable compensation; and every contract, notice, or condition stipulating for exemption from liability for the consequences of their neglect shall be void.

[RL s 2928] (7545)

237.42 DELIVERY OF MESSAGE. When the party to whom a message is addressed resides or does business within the corporate limits of any city where a telegraph office is situated, the same shall be promptly delivered at his place of residence or business, if the same is known or can with reasonable diligence be ascertained. Otherwise he shall be notified by the first mail where it can be found.

[*RL s 2929; 1973 c 123 art 5 s 7*] (7546)

237.43 PRECEDENCE OF MESSAGES. Messages delivered to the owner or agent of any telegraph line operated in whole or in part within this state shall be transmitted in the order in which they are received, except that government dispatches and messages relating to the movement of railroad trains, to cases of sickness or death, and to the administration of criminal laws shall take precedence if the sender shall so request.

[*RL s 2930*] (7547)

237.44 LIABILITY FOR DAMAGES. If any person or corporation owning or operating a telegraph line wholly or partly within the state shall fail to transmit any message within a reasonable time, or to exercise due diligence to that end, after its reception, or shall fail to deliver any message to the party to whom it is addressed within a reasonable time after its arrival at the place of destination, he or it shall be liable in a civil action at the suit of the party injured for all damages sustained by reason of such neglect or omission. The company delivering the message shall state plainly thereon the exact time when it was received at the original point for transmission.

[*RL s 2931*] (7548)

237.45 TELEPHONE AND TELEGRAPH LINES CONSTRUCTED. Natural persons, copartnerships, and associations may construct, maintain, and operate telephone and telegraph lines, and shall have and possess the same rights, powers, and privileges with reference thereto as corporations formed for such purpose.

[*RL s 2932*] (7549)

237.46 VIOLATION A GROSS MISDEMEANOR. Any telephone company and, if it be a corporation, the officers thereof, violating any provisions of sections 237.01 to 237.27, shall be guilty of a gross misdemeanor.

[*1915 c 152 s 24; 1919 c 183 s 6*] (5310)

237.47 ALARM TRANSMISSION TELEPHONE DEVICES; REGULATIONS.
Subdivision 1. Any person desiring to install or use any automatic, electrical, or mechanical device or attachment to any telephone that reproduces any taped or prerecorded message to report any police, fire, or other emergency to any official emergency reporting telephone number shall obtain permission, in writing, from the sheriff of the county in which located or the police chief or fire chief of the municipality into whose emergency telephone number the attachment or device is connected.

Subd. 2. The sheriff, police chief, or fire chief may determine the conditions, if any, under which the device or attachment may be connected, provided such conditions are reasonable in accordance with local conditions and further provided that the device or attachment complies with the rules and regulations of the Minnesota public service commission.

Subd. 3. Whenever the sheriff, police chief, or fire chief has knowledge of the use of any such attachment or device not operated or maintained in accordance with the provisions of this section he may order its removal.

Subd. 4. Violation of any of the provisions of this section shall constitute a misdemeanor.

[*1969 c 1057 s 1-4*]