

CHAPTER 237

TELEPHONE AND TELEGRAPH COMPANIES

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237.01 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. **Independent telephone company.** "Independent telephone company" means a telephone company organized and operating under chapter 301 or 302A or authorized to do business in Minnesota under chapter 303 as of January 1, 1983, and providing local exchange service to fewer than 30,000 subscribers within the state.

[For text of subd 4, see M.S.1986]

History: 1987 c 340 s 18

237.081 SUMMARY INVESTIGATIONS OF INADEQUATE SERVICE.

[For text of subd 1, see M.S.1986]

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

[For text of subds 2 to 5, see M.S.1986]

History: 1987 c 340 s 19

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, whether they relate to competitive or noncompetitive services, and all of its property shall be at all times subject to inspection by the commission and 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 commission and 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 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.

History: 1987 c 340 s 20

237.12 CONNECTIONS BETWEEN TELEPHONE COMPANIES DISCONTINUED ONLY ON ORDER.

Subdivision 1. Interconnection. 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 commission for an order requiring such connection and fixing the compensation, terms and conditions thereof, and if after investigation and hearing the commission shall find that such physical connections will not result in irreparable injury to such telephone properties, the commission 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 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.

Subd. 2. Discontinuance. 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 commission 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, the commission shall fix the compensation, terms and conditions of the continuance of the physical connection and service between the telephone companies.

Subd. 3. **Compensation.** Telephone companies providing long-distance telephone services shall pay compensation to telephone companies providing local telephone services that includes a fair and reasonable portion of:

(1) the costs of local exchange facilities used in connection with long-distance telephone services, including facilities connecting a customer to local switching facilities; and

(2) the common costs of companies providing local telephone services.

History: 1987 c 340 s 21

237.13 [Repealed, 1987 c 340 s 25]

237.16 AUTHORITY FOR CONSTRUCTING TELEPHONE LINES AND EXCHANGES.

Subdivision 1. For the purpose of bringing about uniformity of practice, the commission 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 commission 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 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 commission 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.

[For text of subds 2 to 6, see M.S.1986]

History: 1987 c 340 s 22

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.

History: 1987 c 340 s 23

237.22 DEPRECIATION; AMORTIZATION.

The commission shall fix proper and adequate rates and methods of depreciation and amortization with respect to telephone company property and every telephone company shall conform its depreciation accounts for property used in whole or in part to provide noncompetitive services to the rates and methods fixed by the commission.

History: 1987 c 340 s 24

237.41 [Repealed, 1987 c 340 s 25]

237.42 [Repealed, 1987 c 340 s 25]

237.43 [Repealed, 1987 c 340 s 25]

COMMUNICATION-IMPAIRED PERSONS

237.50 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 237.50 to 237.56 have the meanings given them in this section.

Subd. 2. **Board.** "Board" means the telecommunication access for communication-impaired persons board established in section 237.51.

Subd. 3. **Communication impaired.** "Communication impaired" means certified as deaf, severely hearing impaired, hard of hearing, speech impaired, or deaf and blind.

Subd. 4. **Communication device.** "Communication device" means a device that when connected to a telephone enables a communication-impaired person to communicate with another person utilizing the telephone system. A "communication device" includes a ring signaler, an amplification device, a telephone device for the deaf, and a telebraille unit.

Subd. 5. **Exchange.** "Exchange" means a unit area established and described by the tariff of a telephone company for the administration of telephone service in a specified geographical area, usually embracing a city, town, or village and its environs, and served by one or more central offices, together with associated facilities used in providing service within that area.

Subd. 6. **Fund.** "Fund" means the telecommunication access for communication-impaired persons fund established in section 237.52.

Subd. 7. **Interexchange service.** "Interexchange service" means telephone service between points in two or more exchanges.

Subd. 8. **Inter-LATA interexchange service.** "Inter-LATA interexchange service" means interexchange service originating and terminating in different LATAs.

Subd. 9. **Local access and transport area.** "Local access and transport area (LATA)" means a geographical area designated by the Modification of Final Judgment in U.S. v. Western Electric Co., Inc., 552 F. Supp. 131 (D.D.C. 1982), including modifications in effect on the effective date of sections 237.51 to 237.54.

Subd. 10. **Local exchange service.** "Local exchange service" means telephone service between points within an exchange.

Subd. 11. **Message relay service.** "Message relay service" means a central state-wide service through which a communication-impaired person, using a communication device, may send and receive messages to and from a non-communication-impaired person whose telephone is not equipped with a communication device and through which a non-communication-impaired person may, by using voice communication, send and receive messages to and from a communication-impaired person.

History: 1987 c 308 s 1

NOTE: This section, as added by Laws 1987, chapter 308, section 1, is repealed June 30, 1993. See Laws 1987, chapter 308, section 8.

237.51 BOARD.

Subdivision 1. **Creation.** The telecommunication access for communication-impaired persons board is established to establish and administer a program to distribute communication devices to eligible communication-impaired persons and to create and maintain a message relay service.

Subd. 2. **Members.** The board consists of 12 persons to include:

- (1) the commissioner of the department of human services or the commissioner's designee;
- (2) the director of the department of public service or the director's designee;
- (3) five communication-impaired persons appointed by the governor;
- (4) one person appointed by the governor who is a professional in the area of communications disabilities;

(5) one person appointed by the governor to represent the telephone company providing local exchange service to the largest number of persons;

(6) one member of the Minnesota Telephone Association appointed by the governor to represent other affected telephone companies;

(7) one person appointed by the governor to represent companies providing inter-LATA interexchange telephone service; and

(8) one person to represent the organization operating the message relay service to be appointed by the governor at the time the board contracts with the organization pursuant to section 237.54.

Subd. 3. Removal; vacancy; expenses. The removal of members and filling of vacancies shall be handled as provided under section 15.059, subdivision 4. Members of the board may be reimbursed for expenses incurred in attending meetings as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2.

Subd. 4. Meetings. The board shall meet at least monthly until December 31, 1988, and at least quarterly thereafter.

Subd. 5. Duties. In addition to any duties specified elsewhere in sections 237.51 to 237.56, the board shall:

(1) define economic hardship, special needs, and household criteria so as to determine the priority of eligible applicants for initial distribution of devices and to determine circumstances necessitating provision of more than one communication device per household;

(2) establish a method to verify eligibility requirements;

(3) research and publish lists of available communication devices and compatibility of the devices with available telephone equipment;

(4) enter contracts for the establishment and operation of the message relay service pursuant to section 237.54;

(5) inform the public and specifically the community of communication-impaired persons of the program;

(6) prepare the reports required by section 237.55;

(7) administer the fund created in section 237.52;

(8) retain the services of a program administrator; and

(9) study the potential economic impact of the program on local communication device retailers and dispensers and develop guidelines for the purchase of some communication devices from local retailers and dispensers if the study determines that otherwise they will be economically harmed by implementation of sections 237.50 to 237.56.

Subd. 6. Administrative support. The director of the department of public service shall provide staff assistance not including the program administrator who is to be chosen by the board, administrative services, and office space under a contract with the board. The board shall reimburse the commissioner for services, staff, and space provided. The board may request necessary information from the supervising officer of any state agency.

History: 1987 c 308 s 2

NOTE: This section, as added by Laws 1987, chapter 308, section 2, is repealed June 30, 1993. See Laws 1987, chapter 308, section 8.

237.52 FUND; ASSESSMENT.

Subdivision 1. Fund. A telecommunication access for communication-impaired persons fund is established as an account in the state treasury. Earnings, such as interest, dividends, and any other earnings arising from fund assets, must be credited to the fund.

Subd. 2. Assessment. The board shall annually recommend to the commission an adequate and appropriate mechanism to implement sections 237.50 to 237.56. The commission shall annually determine the funding mechanism to be used within 60 days

of receipt of the recommendation of the program administrator and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than ten cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

Subd. 3. Collection. Every telephone company providing local service in this state shall collect the charges established by the commission under subdivision 2 and transfer amounts collected to the commissioner of administration in the same manner as provided in section 403.11, subdivision 1, paragraph (c). The commissioner of administration must deposit the receipts in the fund established in subdivision 1.

Subd. 4. Appropriation. Money in the fund is appropriated to the board to implement sections 237.51 to 237.56.

Subd. 5. Expenditures. Money in the fund may only be used for:

(1) program administration including personnel cost, public relations, board members' expenses, preparation of reports, and other reasonable expenses not to exceed 20 percent of total program expenditures;

(2) reimbursing telephone companies for purchases made or services provided pursuant to section 237.53;

(3) contracting for establishment and operation of the message relay service required by section 237.54.

All costs directly associated with the establishment of the board and program, the purchase and distribution of communication devices, and the establishment and operation of the message relay service are either reimbursable or directly payable from the fund after authorization by the board.

History: 1987 c 308 s 3

NOTE: This section, as added by Laws 1987, chapter 308, section 3, is repealed June 30, 1993. See Laws 1987, chapter 308, section 8.

237.53 COMMUNICATION DEVICES.

Subdivision 1. Application. A person applying for a communication device under this section must apply to the program administrator on a form prescribed by the board.

Subd. 2. Eligibility. To be eligible to obtain a communication device under this section, a person must be:

(1) at least five years of age;

(2) communication impaired;

(3) a resident of the state;

(4) a resident in a household that has a median income at or below the applicable median household income in the state, except a deaf and blind person applying for a telebraille unit may reside in a household that has a median income no more than 150 percent of the applicable median household income in the state; and

(5) a resident in a household that has telephone service or that has made application for service and has been assigned a telephone number.

Subd. 3. Distribution. The telephone company providing local exchange service to the largest number of persons in the state shall purchase and distribute to each other telephone company providing local exchange service a sufficient number of communication devices so that each eligible household receives an appropriate device. Each telephone company providing local exchange service shall distribute the devices to eligible households in its service area free of charge as directed by the program administrator. Initial distribution of the devices will be on a priority basis as determined by the board under section 237.51.

Subd. 4. Training; maintenance. The company providing local exchange service to an eligible household shall maintain the communication devices and provide training, without charge, to first-time users of the devices.

Subd. 5. Wiring installation. If a communication-impaired person is not served

by telephone service and is subject to economic hardship as determined by the board, the telephone company providing local service shall at the direction of the administrator of the program install necessary outside wiring without charge to the household.

Subd. 6. Ownership. All communication devices purchased pursuant to subdivision 3 will become the property of the company providing the communication device to eligible recipients and are excluded from that company's rate base for the purpose of establishing rates under section 237.075 as applicable.

Subd. 7. Standards. The communication devices distributed under this section must comply with the electronic industries association standards and approved by the Federal Communications Commission. Each company must provide each eligible person a choice of several models of devices, the retail value of which may not exceed \$600 for a communication device for the deaf and a retail value of \$7,000 for a telebraille device.

Subd. 8. Reimbursement. The board shall reimburse telephone companies for the cost of any purchase or service required under this section from money in the fund established in section 237.52.

History: 1987 c 308 s 4

NOTE: This section, as added by Laws 1987, chapter 308, section 4, is repealed June 30, 1993. See Laws 1987, chapter 308, section 8.

237.54 MESSAGE RELAY SERVICE.

Subdivision 1. Establishment. The board shall contract with an inter-LATA interexchange telephone service provider to establish a third-party message relay service with an "800" number to enable telecommunication between communication-impaired persons and non-communication-impaired persons.

Subd. 2. Operation. The board shall contract with a local consumer organization that serves communication-impaired persons for operation of the message relay system. The operator of the system shall keep all messages confidential, shall train personnel in the unique needs of communication-impaired people, and shall inform communication-impaired persons and the public of the availability and use of the system. The operator shall not relay a message unless it originates or terminates through a communication device for the deaf or a telebraille device.

History: 1987 c 308 s 5

NOTE: This section, as added by Laws 1987, chapter 308, section 5, is repealed June 30, 1993. See Laws 1987, chapter 308, section 8.

237.55 REPORTS; PLANS.

The board shall prepare a report for presentation to the commission not later than December 31, 1987, to include plans for distributing communication devices and establishing a third-party message relay service and a recommendation for a funding mechanism pursuant to section 237.52, subdivision 2. The provision of service required under sections 237.50 to 237.56 may begin when the plan is approved by the commission or March 1, 1988, whichever is earlier.

Beginning in 1988, the board must prepare a report for presentation to the commission by December 31 of each year through the year 1992. Each report must review the accessibility of the telephone system to communication-impaired persons, review the ability of non-communication-impaired persons to communicate with communication-impaired persons via the telephone system, describe services provided, account for money received and disbursed annually for each aspect of the program to date, and include predicted future operation until the final report.

The final report must, in detail, describe program operation and make recommendations for the funding and service level for necessary ongoing services. The commission may recommend changes in the program to the legislature throughout its operation and shall make a recommendation to the legislature by February 1, 1993, for the future provision and maintenance of the services.

History: 1987 c 308 s 6

NOTE: This section, as added by Laws 1987, chapter 308, section 6, is repealed June 30, 1993. See Laws 1987, chapter 308, section 8.

237.56 ADEQUATE SERVICE.

The services required to be provided under sections 237.50 to 237.55 may be enforced under section 237.081 upon a complaint of at least two communication-impaired persons within the service area of any one telephone company, provided that if only one person within the service area of a company is receiving service under sections 237.50 to 237.55, the commission may proceed upon a complaint from that person.

History: 1987 c 308 s 7

NOTE: This section, as added by Laws 1987, chapter 308, section 7, is repealed June 30, 1993. See Laws 1987, chapter 308, section 8.

REGULATION OF COMPETITIVE TELEPHONE SERVICES**237.57 DEFINITIONS.**

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

Subd. 2. **Competitive service.** "Competitive service" means a service that has been determined to be subject to effective competition or emerging competition.

Subd. 3. **Effective competition.** "Effective competition" exists when the criteria of section 237.59, subdivision 5, have been satisfied for a service.

Subd. 4. **Emerging competition.** "Emerging competition" exists when the criteria of section 237.59, subdivision 5, have not been satisfied, but there is a trend toward effective competition.

Subd. 5. **Local access and transport area.** "Local access and transport area (LATA)" means a geographical area designated by the Modification of Final Judgment in U.S. v. Western Electric Co., Inc., 552 F. Supp. 131 (D.D.C. 1982).

Subd. 6. **Noncompetitive service.** "Noncompetitive service" means a service that has not been classified as competitive by the commission.

History: 1987 c 340 s 1**237.58 APPLICABILITY; REGULATION OF NONCOMPETITIVE SERVICES.**

Subdivision 1. **Applicability.** This section and sections 237.59, 237.60, and 237.62 do not apply to a telephone company unless the company notifies the commission in writing of its decision to be subject to all of those sections. The company may not revoke its decision to be subject to those sections.

Subd. 2. **Noncompetitive services; rate change procedures.** Except as provided in section 237.63, a telephone company may change its rates and charges for the noncompetitive services by complying with section 237.075 and section 237.62. The commission may also investigate matters related to the provision of these services and make orders relating to the services as may be appropriate under section 237.081.

Subd. 3. **Discontinuance of service.** A telephone company may not discontinue any noncompetitive services without the express approval of the commission.

History: 1987 c 340 s 2**237.59 CLASSIFICATION OF COMPETITIVE SERVICES; HEARING.**

Subdivision 1. **Emerging competitive services.** The following services provided by the telephone company are subject to emerging competition unless and until reclassified as noncompetitive or subject to effective competition under this section:

- (1) apartment door answering services;
- (2) automatic call distribution;

- (3) billing and collection services;
- (4) call waiting, call forwarding, and three-way calling services for businesses with three or more lines;
- (5) central office-based pricing packages providing switched business access lines which substitute for private branch exchange systems which may or may not share intelligence with customer premises equipment;
- (6) command link-type services for network reconfiguring to rearrange cross-connections between channel services;
- (7) custom network services and special assemblies;
- (8) digicom switchnet services for full duplex, synchronous, information transport;
- (9) direct customer access services for telephone number information services video display;
- (10) group access bridge services;
- (11) inter-LATA and intra-LATA message toll service;
- (12) inter-LATA and intra-LATA private line services;
- (13) inter-LATA and intra-LATA wide area telephone service;
- (14) mobile radio services;
- (15) operator-handled intercept services;
- (16) public pay telephone services, excluding charges for access to the central office;
- (17) seminars;
- (18) services not previously offered prior to August 1, 1987;
- (19) services which generate an annual revenue equal to or less than one-tenth of one percent of a telephone company's annual revenues in the year the company elects to be covered by this section;
- (20) special construction of facilities;
- (21) studies;
- (22) systems for automatic dialing; and
- (23) versanet-type service access line involving continuous monitoring and transmission of data from customer's premises to the central office.

Subd. 2. Petition. A person, or the commission on its own motion, may petition to have a service of a telephone company classified as subject to effective competition or emerging competition. The petition must be served on the commission, the department of public service, the office of the attorney general, and any other person designated by the commission. The petition must contain at least:

- (1) a list of the known alternative providers of the service available to the company's customers;
- (2) an estimate of the company's current market share;
- (3) identification of barriers to entry or exit from the market for the service; and
- (4) a description of affiliate relationships with any other provider of the service in the company's market.

Subd. 3. Expedited proceeding. A person who files a petition under subdivision 2 may request that the commission determine the classification of the service through an expedited proceeding under section 237.61 or a contested case hearing. If an expedited proceeding is requested, the commission must provide interested persons an opportunity to comment on the appropriateness of the process and the merits of the petition.

When an expedited proceeding is requested, the commission must make a final determination within 60 days of the date on which all required information required pursuant to subdivision 2 is filed, unless during the 60 days the commission finds that a material issue of fact is in dispute in which case it must order a contested case hearing be conducted to evaluate the petition.

Subd. 4. Contested case hearing. If a contested case hearing is held under this section, the commission shall make a final determination on the petition within eight months from the date the petitioning party requests a contested case hearing or from the date the commission orders a contested case hearing under subdivision 3. When a contested case hearing is requested in the petition or when the commission acts on its own motion, this deadline may be extended for no more than 60 days by agreement of all parties or by order of the commission if the commission finds that the case cannot be completed within the required time and that without an extension there is substantial probability that the public interest will be harmed.

Subd. 5. Criteria. (a) In determining whether a service is subject to either effective competition or emerging competition from available alternative services, the commission shall consider and make findings on the following factors:

(1) the number and sizes of alternative providers of service and affiliation to other providers;

(2) the extent to which services are available from alternative providers in the relevant market;

(3) the ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions of service;

(4) the market share, the ability of the market to hold prices close to cost, and other economic measures of market power; and

(5) the necessity of the service to the well-being of the customer.

(b) In order for the commission to find a service subject to effective competition alternative services must be available to over 50 percent of the company's customers for that service.

(c) In order for the commission to find a service subject to emerging competition alternative services must be available to over 20 percent of the company's customers for that service.

Subd. 6. Burden of proof. The person that files the petition under subdivision 2 has the burden of proving that competition exists and that classifying the service as other than noncompetitive will serve the public interest.

Subd. 7. Inter-LATA long-distance service. A petition filed under subdivision 2 to have an inter-LATA long-distance service classified as subject to effective competition shall be accepted by the commission as a petition to classify the inter-LATA long-distance service provided by all telephone companies as subject to effective competition. The commission may not find that a telephone company's inter-LATA long-distance service is subject to effective competition without a finding that the service is subject to effective competition for each telephone company providing that service in the state.

Subd. 8. Interim relief. A telephone company that has a petition pending before the commission under this section to declare a service competitive may decrease its price for that service without notice while the commission considers the petition. A company must provide an incremental cost study if requested by the commission. The commission shall suspend a company's right under this subdivision to decrease rates if, after an expedited hearing conducted under section 237.61, the commission finds that the service is being priced below cost, or that the company has within the previous 12 months charged customers interim rates under this subdivision for the same service, and that service was determined by the commission to be noncompetitive.

Subd. 9. Reporting requirements; exception. A telephone company that offers only competitive services is not subject to the accounting and reporting requirements of this chapter unless otherwise ordered by the commission for good cause. A telephone company that offers both competitive and noncompetitive services is not subject to the reporting requirements with regard to its effective competition services unless otherwise ordered by the commission for good cause.

Subd. 10. Regulation reinstated. The commission, on its own motion or upon complaint, shall reclassify a service as noncompetitive or as subject to emerging

competition and reinstate, in whole or in part, rate regulation of the service, if, after notice and hearing, the commission finds either:

(1) that the competitive market for that service, on review of the criteria found in subdivision 5, has failed so that rate regulation of that service is necessary to protect the interest of consumers, that it has considered the alternatives to rate regulation, and that the benefits of rate regulation outweigh the burdens of rate regulation; or

(2) that unreasonable discrimination has occurred between different areas of the state.

In any proceeding to reclassify a service the person initiating the complaint has the burden of proving that the existing classification is inappropriate, except the telephone company providing the service has the burden of proving that the classification is appropriate when the proceeding is commenced by the commission on its own motion or when the complainant is the department or the attorney general.

History: 1987 c 340 s 3

237.60 RATES; COMPETITIVE SERVICES.

Subdivision 1. Effective competition. A company whose service has been determined by the commission to be subject to effective competition may decrease the rate for that service effective without notice to its customers or the commission, and may increase the rate for that service effective upon notice to its customers at least 30 days in advance of the increase. A company whose service is declared subject to effective competition is not subject to the requirements of section 237.07 for that service.

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

(b) A company may decrease the rate for a service subject to emerging competition that is listed in the price list, effective ten days after filing a new price list with the commission. A company may increase the rate for a service subject to emerging competition effective 30 days after notice is given to affected customers, the commission, and the department. The notice to the commission and the department for a rate increase must include an incremental, or other acceptable cost study as determined by the commission, supporting the increase. The department shall investigate an increase or decrease in rates for services subject to emerging competition, and report its findings to the commission. The commission may, after a contested case hearing or an expedited hearing under section 237.61 if there are no material facts in dispute, order the company to adjust its rates or charges for a service subject to emerging competition if the commission finds that the price charged is excessive. The commission may, within ten months of the date a price change went into effect, order price adjustments retroactive to the date the change went into effect and order the company to make any necessary refunds to affected customers.

Subd. 3. Discrimination. No telephone company shall offer telecommunications service within the state upon terms or rates that are unreasonably discriminatory. No telephone company shall unreasonably limit its service offerings to particular geographic areas unless facilities necessary for the service are not available and cannot be made available at reasonable costs. The rates of a telephone company must be the same in all geographic locations of the state unless for good cause the commission approves different rates. A company that offers long-distance services shall charge uniform rates and charges on all long-distance routes and in all geographic areas in the state where it offers the services. However, a company may offer or provide volume discounts in connection with intrastate long-distance services and may pass through any state, municipal, or local taxes in the specific geographic areas from which the taxes originate. Nothing in this subdivision authorizes a telephone company to provide service outside of its authorized service area except as provided in section 237.16.

Subd. 4. **Cost of service.** Prices or rates charged for competitive services must cover the incremental costs of providing the service. If a telephone company provides both local service and long-distance services, that company shall, in determining the cost of the long-distance service, include at least the same level of contribution to common and joint costs as is contained in the access charges to other telephone companies. The company may do so on an aggregate basis, instead of on a time or mileage band basis.

Subd. 5. **Complaints.** Competitive services are subject to the complaint procedures of section 237.081. In a complaint proceeding, the company providing the service bears the burden of proving that the prices charged cover its incremental costs and a reasonable contribution to the common and joint costs of the company and are fair, just, and reasonable.

History: 1987 c 340 s 4

237.61 EXPEDITED PROCEEDINGS.

Notwithstanding chapter 14, the commission may conduct an expedited proceeding when authorized under this chapter. In an expedited proceeding, the commission shall give prior notice to interested persons and provide them with an opportunity to present statements of fact and argument and to reply, either orally or in writing or both. In an expedited proceeding, the pleadings must be verified, and oral statements of fact must be made under oath or affirmation. The commission shall make a decision in an expedited proceeding based on the record.

History: 1987 c 340 s 5

237.62 GENERAL RATE PROCEEDINGS; JOINT COSTS; NONCOMPETITIVE SERVICES.

Subdivision 1. **Financial requirements.** Paragraph (a) or (b) governs a proceeding initiated under section 237.075 or 237.081 to change the rates for noncompetitive services. The company shall elect that rate changes be made in accordance with either paragraph (a) or (b) and that election is binding on the commission in all respects.

(a) The company may demonstrate the revenue requirement for its noncompetitive services by providing:

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

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

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

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

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

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

Subd. 2. **Cross-subsidization.** A telephone company shall not subsidize its competitive services from its noncompetitive services through allocations of costs, cost-sharing agreements, or by other means, direct or indirect. When an investment is for both noncompetitive and competitive services, the company shall demonstrate that the benefits received by the noncompetitive customers justify the allocation of costs

proposed by the company. Allocations and cost assignments must be reviewed at least every five years and a report detailing the methods and results must be filed with the department and the commission. An independent telephone company or a municipality or cooperative telephone association is not required to file a report as required by this subdivision provided that its allocations and cost assignments are subject to review upon order of the commission. If the commission determines that the methods chosen by the company are not satisfactory, the commission may order changes in the methods used and make necessary prospective adjustments in noncompetitive rates being charged to reflect the changes in cost.

Subd. 3. Additional information. The commission may require a telephone company to provide information regarding the revenues, expenses, investments, and costs for all of its services.

History: 1987 c 340 s 6

237.63 MISCELLANEOUS TARIFFS.

Subdivision 1. General. Notwithstanding section 237.075, rates for noncompetitive services may be set or changed subject to this section.

Subd. 2. Language changes. If language describing a rate, term, or condition of service in a tariff is changed, without substantially altering the application of the tariff, the change may take effect upon one-day notice to the public utilities commission.

Subd. 3. Cost increases. If the actual costs of providing a particular service have increased since the last proceeding under section 237.075, the rate for that service may be increased to recover those costs. The company requesting this rate increase shall file with its request the cost data it relies upon for the increase. The department shall review the request and make a recommendation to the commission regarding the appropriateness of the request within 20 calendar days of filing the request by the telephone company. If the department notifies the company within 15 days of the filing that additional information is required, the department shall make its recommendation to the commission within 20 calendar days after receipt of that additional information. If the company fails to provide adequate information within 20 calendar days of the department request, the department shall recommend denial of the company request on the basis of failure to provide adequate information. The commission shall either approve or reject the request under this subdivision within 20 calendar days of the receipt of the department recommendation. In order to qualify as a change in costs, it must be a cost change related to a particular service rather than a general overall increase applicable to most of the company's services, and an actual change in costs must have occurred rather than the discovery of a change in costs as a result of conducting a new cost study.

Subd. 4. Reducing rates. A company may reduce its rates for one or more services effective 20 days after filing the rates with the commission.

Subd. 5. Burden of proof. The burden of proof that the requested rates are reasonable under this section is on the telephone company providing the service.

Subd. 6. Filing of documents. A copy of filings made under this section must be served on the commission, the department, and the attorney general.

Subd. 7. Commission review. Nothing in this section prevents the commission from ordering that a requested change not take effect, or from subsequently amending the rates either through a complaint proceeding, a commission investigation, or through a proceeding conducted under section 237.075.

History: 1987 c 340 s 7

237.64 REGISTRATION; BOND.

Subdivision 1. Registration. A person, firm, or corporation seeking to offer a telephone service to the public that is classified as competitive shall register with the department and the commission 30 days before beginning operation in the state. A telephone company that has been authorized by the commission to provide telephone

services in this state prior to August 1, 1987, is not required to register under this subdivision. A person, firm, or corporation seeking to offer a noncompetitive service to the public must obtain authority from the commission under section 237.16.

Subd. 2. Bond. Telephone companies offering services that have been found to be competitive shall maintain a bond if the company requires advance payments or deposits from its customers, unless waived by the commission. The bond must be issued by a surety company admitted to do business in this state in the principal sum of all deposits and advance payments to be held by the company. The department shall determine the amount of the bond and may require the company to supply information to determine the appropriate amount of the bond. The bond must be in favor of the state for the benefit of any customer who suffers the loss of a deposit or advance payment due to insolvency, cessation of business, or failure to return any unused portion of the deposit or advance payment. The bond must be filed with the department.

History: 1987 c 340 s 8

237.65 AFFILIATED TRANSACTIONS.

Subdivision 1. Definition. For the purposes of this section, "affiliated company" means a person, company, corporation, or other entity in which the telephone company has an affiliated interest as defined under section 216B.48, subdivision 1.

Subd. 2. Records. Telephone companies, except companies that provide only services that have been found to be competitive, shall maintain records for a period of three years documenting transactions in excess of \$50,000 with an affiliated company. The documentation must contain:

- (1) the name of the affiliate;
- (2) a description of the transaction or contract;
- (3) the dollar value of the transaction or contract;
- (4) in the case of goods and services purchased from an affiliate, any evidence of efforts made by the telephone company to secure the same or functionally equivalent goods or services from a nonaffiliated supplier; and
- (5) in the case of services provided to an affiliate, any evidence of the fair market value of those goods or services.

Subd. 3. Commission review. In a proceeding for the approval of rates for noncompetitive services, the burden is on the company to prove that goods or services acquired from or sold to affiliates were transferred at reasonable value. The determination of reasonable value shall include but not be limited to durability, quality, service, and price.

History: 1987 c 340 s 9

237.66 DISCLOSURE.

Subdivision 1. Notice of service options. A telephone company, when a residential customer initially requests service or requests a change of service, and annually in the form of a bill insert, shall advise each residential customer of the price of all service options available to that customer. The requirement of an annual notice through a bill insert does not apply to long-distance service.

Subd. 2. Filing. Copies of both the written notices and information provided to customer service representatives concerning the disclosure required under subdivision 1 must be filed once every 12 months with the commission and the department. Independent telephone companies, municipalities, and cooperative telephone associations are exempt from the requirements of this subdivision unless otherwise ordered by the commission.

Subd. 3. Enforcement. If, after an expedited procedure conducted under section 237.61, the commission finds that a telephone company is failing to provide disclosure as required under subdivision 1, it shall order the company to take corrective action as necessary.

History: 1987 c 340 s 10

237.67 LEGISLATIVE REPORTS.

Beginning January 1, 1988, the commission and the department shall annually report to the legislature on the implementation of Laws 1987, chapter 340, and recommend changes necessary to assure high quality and affordable telephone services for the residents of the state.

History: 1987 c 340 s 11

237.68 PRIVATE SHARED TELECOMMUNICATIONS SERVICE.

Subdivision 1. Definition. For the purposes of this section, "private shared telecommunications services" means the provision of telephone services and equipment within a user group located in discrete private premises, in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to long-distance telephone companies.

Subd. 2. Requirements. A person who owns or operates a building, property, complex, or other facility where a private shared telecommunications system is operated shall establish a single demarcation point for services and facilities provided by the telephone company providing local exchange service in the area that is mutually agreeable to the property owner or operator and the telephone company. The obligation of a telephone company to provide service to a customer at a location where a private shared telecommunications system is operated is limited to providing telephone company service and facilities up to the demarcation point established for the property where the private shared telecommunications system is located.

Subd. 3. Access to alternative providers. A tenant of a building, property, complex, or other facility where a private shared telecommunications system is operated may establish a direct connection to and receive telephone service from the telephone company providing local exchange service in the area where the private shared telecommunications system is located. At the request of a tenant where a private shared telecommunications system is operated, the owner or manager of the property shall make facilities or conduit space available to the tenant to allow the tenant to make separate connection to and to receive telephone service directly from the telephone company operating local exchange service in the area. The tenant has the choice of installing the tenant's own facilities or using the existing facilities. The facilities or conduit space must be provided by the owner or operator to the tenant at a reasonable rate and on reasonable terms and conditions. It is the obligation of the tenant to arrange for premises wire, cable, or other equipment necessary to connect the tenant's telephone equipment with the facilities of the telephone company operating local exchange service at the location of the demarcation point.

Subd. 4. Enforcement. If the commission finds that the owner or operator of a private shared telecommunications system has failed to comply with a request under this section, the commission may order the owner or operator to make facilities or conduit space available sufficient to allow the tenant to make separate connection with the telephone company, and provide the services at reasonable prices and on reasonable terms and conditions.

Subd. 5. Exemption. A provider of private shared telecommunications services is exempt from section 237.16 if the telecommunications services are only provided to tenants or for the provider's own use.

Subd. 6. Service by local telephone company. The telephone company providing local exchange service shall provide service to anyone located within a shared services building at the demarcation point within a reasonable time upon request.

History: 1987 c 340 s 12

237.69 TELEPHONE ASSISTANCE PLAN; DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 237.69 to 237.72 have the meanings given them in this section.

Subd. 2. **Commission.** "Commission" means the Minnesota public utilities commission.

Subd. 3. **Department.** "Department" means the Minnesota department of public service.

Subd. 4. **Telephone company.** "Telephone company" has the meanings given it in section 237.01, subdivisions 2 and 3, that provides local exchange telephone service.

Subd. 5. **Access line.** "Access line" means telephone company-owned facilities furnished to permit switched access to the telecommunications network that extend from a central office to the demarcation point on the property where the subscriber is served. The term includes access lines provided to residential and business subscribers, includes centrex access lines on a trunk-equivalent basis, but does not include private nonswitched or wide area telephone service access lines.

Subd. 6. **Federal matching plan.** "Federal matching plan" means the telephone assistance plan formulated by the Federal Communications Commission that provides federal assistance to local telephone subscribers.

Subd. 7. **Telephone assistance plan.** "Telephone assistance plan" means the plan to be adopted by the commission and to be jointly administered by the commission, the department of human services, and the telephone companies, as required by sections 237.69 to 237.72.

Subd. 8. **Income.** For purposes of sections 237.69 to 237.72, income has the meaning given it in section 290A.03, subdivision 3.

History: 1987 c 340 s 13

237.70 DEVELOPMENT OF TELEPHONE ASSISTANCE PLAN.

Subdivision 1. **Commission responsibility.** The commission shall develop a telephone assistance plan under this section.

Subd. 2. **Scope.** The telephone assistance plan must be statewide and apply to telephone companies that provide local exchange service in Minnesota.

Subd. 3. **Federal matching plan.** The telephone assistance plan must contain adequate provisions to enable telephone companies to qualify for assistance under the federal matching plan.

Subd. 4. **Households eligible for credits.** The telephone assistance plan must provide telephone assistance credit for a residential household in Minnesota that:

(1) does not receive aid for telephone service under any other program other than the federal matching plan or the telephone assistance plan;

(2) has a household member who subscribes to local exchange telephone service and who is 65 years of age or older; and

(3) has a maximum total annual household income level that does not exceed:

(i) when the size of the household is 1, \$7,862;

(ii) when the size of the household is 2, \$10,281;

(iii) when the size of the household is 3, \$12,699;

(iv) when the size of the household is 4, \$15,118;

(v) when the size of the household is more than 4, \$15,118 plus for each additional household member, \$2,419.

Subd. 5. **Nature and extent of credits.** The telephone assistance plan may provide for telephone assistance credits to eligible households up to the amounts available under the federal matching plan. However, the credits available under the telephone assistance plan may not exceed:

(1) more than 50 percent of the local exchange rate charged for the local exchange service provided to the household by that household's telephone company; and

(2) the level of credits that can actually be funded in accordance with the limitations contained in subdivision 6.

Subd. 6. Funding. The commission shall provide for the funding of the telephone assistance plan by assessing a uniform recurring monthly surcharge applicable to all classes and grades of access lines provided by each telephone company in the state. The revenue generated by the surcharge must not exceed \$2,500,000 on a statewide basis. This statewide \$2,500,000 limitation must be apportioned between telephone companies based on their relative number of access lines.

Subd. 7. Administration. The telephone assistance plan must be administered jointly by the commission, the department of human services, and the telephone companies in accordance with the following guidelines:

(a) The commission and the department of human services shall develop eligibility certification forms that must be completed at least annually by the subscriber residing in a household for the purposes of certifying eligibility for telephone assistance plan credits to the telephone companies.

(b) The department of human services, through its various offices and agencies, shall determine the eligibility for telephone assistance plan credits on an annual basis according to the criteria contained in subdivision 4, based upon consideration of documentation made available to the department of human services by the subscriber, and shall provide the necessary certification forms to eligible households for provision by the households to the telephone company.

(c) The telephone company shall provide telephone assistance plan credits against monthly charges in the month following receipt of an eligibility certification form and shall continue to provide credits for 12 months after, unless notified that eligibility has terminated earlier. At the end of every 12-month period, telephone assistance plan credits cease unless the telephone company has been provided with a new eligibility certification form.

(d) The commission shall serve as the administrator of a statewide surcharge revenue pool and be reimbursed for its administrative expenses from the surcharge revenue pool. As the administrator, the commission shall:

- (1) establish a uniform statewide surcharge in accordance with subdivision 6;
- (2) establish a uniform statewide level of telephone assistance plan credit that each telephone company shall extend to each eligible household in its service area;
- (3) require each telephone company to account to the commission on a periodic basis for surcharge revenues collected by the company, expenses incurred by the company, and credits extended by the company under the telephone assistance plan;
- (4) require each telephone company to remit excess surcharge revenues to the commission for administration as part of the pool; and
- (5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses and telephone assistance plan credits that are not covered by the surcharge revenue collected by the company. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the department with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The department shall investigate complaints against telephone companies with

regard to the telephone assistance plan and shall report the results of its investigation to the commission.

History: 1987 c 340 s 14

237.71 RULES.

The commission shall adopt rules under the administrative procedure act necessary or appropriate to establish the telephone assistance plan in accordance with this chapter so that the telephone assistance plan is effective as of January 1, 1988, or as soon after that date as Federal Communications Commission approval of the telephone assistance plan is obtained.

History: 1987 c 340 s 15

237.72 PARTICIPATION OF DEPARTMENT OF HUMAN SERVICES.

The department of human services shall participate in the implementation and administration of the telephone assistance plan in accordance with sections 237.69 to 237.72.

History: 1987 c 340 s 16