

## CHAPTER 237

## TELEPHONE AND TELEGRAPH COMPANIES

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**237.07 FILING REQUIREMENTS.**

**Subdivision 1. Filing of charges.** Every telephone company shall keep on file with the department a specific rate, toll, or charge for every kind of noncompetitive service and a price list for every kind of service subject to emerging competition, together with all rules and classifications used by it in the conduct of the telephone business, including limitations on liability. The filings are governed by chapter 13. When a company sells services subject to emerging competition on an individually priced basis, it shall file a statement of the charges to its customers with the commission and the department. The department shall require each telephone company to keep open for public inspection, at designated offices, so much of these rates, price lists, and rules as it deems necessary for the public information.

**Subd. 2. Separate pricing.** When competitive services or service elements or services on an individually priced basis are sold in conjunction with noncompetitive services or service elements, the telephone company shall file or have on file with the commission and the department separate prices for its services subject to emerging competition and noncompetitive services or service elements. Telephone services or service elements must be offered on a nondiscriminatory basis.

**History:** 1989 c 74 s 1

**237.071 SPECIAL PRICING.**

Except as prohibited by section 237.60, subdivision 3, prices unique to a particular customer or group of customers may be allowed for noncompetitive services and for services subject to emerging competition when differences in the cost of providing a service or a service element justifies a different price for a particular customer or group of customers. Individual pricing for services subject to emerging competition may be allowed when a uniform price should not be required because of market conditions. Unique or individual prices for services or service elements in effect before July 1, 1989, are deemed to have been approved under this section.

**History:** 1989 c 74 s 2

**237.075 RATE CHANGES.**

*[For text of subd 1, see M.S.1988]*

Subd. 1a. *[Repealed, 1989 c 74 s 26]*

*[For text of subds 2 to 8, see M.S.1988]*

**Subd. 9. Election on regulation.** For the purposes of this section, "telephone company" shall not include a cooperative telephone association organized under the provisions of chapter 308A, an independent telephone company, or a municipal, unless

the cooperative telephone association, independent telephone company, or municipal makes the election provided in this subdivision.

A cooperative telephone association may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by the board of directors of the association in accordance with the procedures for amending the articles of incorporation contained in section 308A.135, excluding the filing requirements; or (b) approved by a majority of members or stockholders voting by mail ballot initiated by petition of no fewer than five percent of the members or stockholders of the association. The ballot to be used for the election shall be approved by the board of directors and the department of public service. The department shall mail the ballots to the association's members who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the association shall count the ballots. If a majority of the association's members who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "member or stockholder" shall mean either the member or stockholder of record or the spouse of the member or stockholder unless the association has been notified otherwise in writing.

A municipal may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by resolution of the governing body of the municipality; or (b) approved by a majority of the customers of the municipal voting by mail ballot initiated by petition of no fewer than 20 percent of the customers of the municipal. The ballot to be used for the election shall be approved by the governing body of the municipality and the department of public service. The department shall mail the ballots to the municipal's customers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the governing body of the municipality. On this date, representatives of the department and the municipal shall count the ballots. If a majority of the customers of the municipal who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "customer" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the municipal utility has been notified otherwise in writing.

An independent telephone company may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by the board of directors of the company in accordance with the procedures for amending the articles of incorporation contained in sections 302A.133 to 302A.139, excluding the filing requirements; or (b) approved by a majority of subscribers voting by mail ballot initiated by petition of no fewer than five percent of the subscribers of the company. The ballot to be used for the election shall be approved by the board of directors and the department of public service. The department shall mail the ballots to the company's subscribers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the company shall count the ballots. If a majority of the company's subscribers who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section the term "subscriber" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the independent telephone company has been notified otherwise in writing.

*[For text of subd 10, see M.S.1988]*

**History:** 1989 c 144 art 2 s 4; 1989 c 356 s 12

**237.076 SETTLEMENTS; PROCEDURES.**

**Subdivision 1. Settlements.** In proceedings before the commission, interested parties are encouraged to enter into settlements of their disputes. If a settlement is reached before a contested case hearing has been ordered and the commission rejects the settlement, the commission shall order a contested case hearing if a significant issue has not been resolved to the commission's satisfaction. When a contested case hearing has been ordered under this chapter, the office of administrative hearings, before conducting the hearing, shall convene a settlement conference including all the parties to encourage settlement of issues in the contested case. If a stipulated settlement is not reached before the contested case hearing, the office of administrative hearings may, at its discretion or a party's request, reconvene the settlement conference during the hearing or after its completion. If all parties agree to a stipulated settlement of the case or a part of the case, the settlement must be submitted to the commission.

**Subd. 2. Procedures.** The commission may accept a settlement upon finding that to do so is in the public interest and is supported by substantial evidence. If the commission does not accept a settlement, it may issue an order modifying the settlement, subject to the approval of the parties. A party has ten days after entry of the order, or of an order disposing of a petition for reconsideration, in which to reject the proposed modification. If no party rejects the proposed modification, the commission's order becomes final. If the commission rejects a settlement or if a party rejects the commission's proposed modification of a settlement, the matter must be referred to the administrative law judge assigned to the case for further proceedings.

**History:** 1989 c 74 s 3

**237.081 INVESTIGATIONS.**

**Subdivision 1. Commission investigations.** Whenever the commission believes that a 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 investigate the service or matter with or without notice, except that the commission shall give notice to a telephone company before it investigates the level of rates charged by the company.

**Subd. 1a. Complaint investigation.** Upon a complaint made against a telephone company by any other provider of telephone service, by the governing body of a 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 telephone company, 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 with telephone service is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission, after notice to the telephone company, shall investigate the matters raised by the complaint.

**Subd. 2. Proceedings after investigations.** (a) If, after making an investigation under subdivision 1 or 1a, the commission finds that a significant factual issue raised has not been resolved to its satisfaction, the commission shall follow the appropriate procedure prescribed by this subdivision.

(b) For an investigation concerning the reasonableness of the rates for noncompetitive services of a telephone company whose general revenue requirement is determined under section 237.075, the commission shall order the company to initiate a rate proceeding in accordance with section 237.075. The commission shall allow the company at least 120 days after the date of the commission's order to initiate the proceeding.

(c) For other investigations, the commission shall order that a contested case hearing be conducted under chapter 14 unless the complainant, the telephone company, and the commission agree that an expedited hearing under section 237.61 is appropriate.

Subd. 3. [Repealed, 1989 c 74 s 26]

Subd. 4. **Establishment of rates and prices.** Whenever the commission finds, after a proceeding under subdivision 2, that (1) a service that can be reasonably demanded cannot be obtained, (2) that any rate, toll, tariff, charge, or schedule, 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 with telephone service, is in any respect unreasonable, insufficient, or unjustly discriminatory, or (3) that any service is inadequate, the commission shall make an order respecting the tariff, regulation, act, omission, practice, or service that is just and reasonable and, if applicable, shall establish just and reasonable rates and prices.

Subd. 5. **Service; notice.** A copy of an order issued under this section must be served upon the person against whom it runs or the person's attorney, and notice of the order must be given to the other parties to the proceedings or their attorneys.

**History:** 1989 c 74 s 4

## **237.295 COST OF EXAMINATION; ASSESSMENT OF EXPENSES; LIMITATION; OBJECTIONS.**

Subdivision 1. **Payment for investigations.** Whenever the department or commission, in a proceeding upon its own motion, on complaint, or upon an application to it, considers it necessary, in order to carry out the duties imposed on it, to investigate the books, accounts, practices, and activities of, or make appraisals of the property of, a telephone company, or to render engineering or accounting services to a telephone company, the telephone company shall pay the expenses reasonably attributable to the investigation, appraisal, or service. The department and commission shall ascertain the expenses, and the department shall render a bill for those expenses to the telephone company, either at the conclusion of the investigation, appraisal, or services, or from time to time during its progress. The bill constitutes notice of the assessment and a demand for payment. The amount of the bills assessed by the department under this subdivision must be paid by the telephone company into the state treasury within 30 days from the date of assessment. The total amount, in a calendar year, for which a telephone company may become liable, by reason of costs incurred by the department and commission within that calendar year, may not exceed two-fifths of one percent of the gross jurisdictional operating revenue of the telephone company in the last preceding calendar year. Direct charges may be assessed without regard to this limitation until the gross jurisdictional operating revenue of the telephone company for the preceding calendar year has been reported for the first time. Where, under this subdivision, costs are incurred within a calendar year that are in excess of two-fifths of one percent of the gross jurisdictional operating revenues, the excess costs are not chargeable as part of the remainder under subdivision 2, but must be paid out of the general appropriation of the department.

Subd. 2. **Assessment of costs.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1 or 5. The remainder must be assessed by the department to the telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calendar year. The assessment must be paid into the state treasury within 30 days after the bill has been mailed to the telephone companies. The bill constitutes notice of the assessment and demand of payment. The total amount that may be assessed to the telephone companies under this subdivision may not exceed one-eighth of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the second quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

*[For text of subds 3 to 5, see M.S.1988]*

**History:** 1989 c 74 s 5,6

### **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 237.295. All sums paid by the telephone companies to reimburse the department of public service for its expenses pursuant to section 237.295 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.

**History:** 1989 c 269 s 43

### **237.35 TAX LEVY FOR CONSTRUCTION.**

When any town has 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 tax levy for that purpose shall not exceed 0.08051 percent of taxable market value.

**History:** 1989 c 277 art 4 s 19

### **237.57 DEFINITIONS.**

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them in this section.

*[For text of subds 2 to 6, see M.S.1988]*

**History:** 1989 c 74 s 7

### **237.58 APPLICABILITY; REGULATION OF NONCOMPETITIVE SERVICES.**

Subdivision 1. **Applicability.** This section and sections 237.59; 237.60, subdivisions 1, 2, and 5; 237.62; and 237.625 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 before January 1, 1994.

*[For text of subds 2 and 3, see M.S.1988]*

**History:** 1989 c 74 s 8

**NOTE:** Subdivision 1, as amended by Laws 1989, chapter 74, section 8, is repealed August 1, 1994. See Laws 1989, chapter 74, section 26.

### **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) a service that generates an annual revenue equal to or less than the greater of one-tenth of one percent or \$100,000 of a telephone company's annual gross 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 telephone company, or the commission on its own motion, may petition to have a service of that 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 telephone company that is the subject of 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 shall make a final determination within 60 days of the date on which all required information required under 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 shall order that a contested case hearing be conducted to evaluate the petition.

*[For text of subds 4 and 5, see M.S.1988]*

Subd. 6. **Burden of proof.** The classification of a service may not be changed so as to result in lessened regulation unless it is demonstrated by a preponderance of the evidence that the criteria of subdivision 5 have been met.

*[For text of subds 7 to 10, see M.S.1988]*

**History:** 1989 c 74 s 9-12

**NOTE:** Subdivisions 1, 2, 3, and 6, as amended by Laws 1989, chapter 74, sections 9 to 12, are repealed August 1, 1994. See Laws 1989, chapter 74, section 26.

## **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:

(1) decrease the rate for that service effective without notice to its customers or the commission; and

(2) 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, subdivision 1, for that service.

Subd. 2. **Emerging competition.** (a) 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 and the department, along with an incremental cost study demonstrating that the proposed price is above incremental cost. The commission shall prevent a proposed price reduction from going into effect if, after receiving a complaint or on its own motion, under section 237.081, the commission finds that the proposed rate is below incremental cost or that the proposed rate is not just and reasonable.

(b) A company may increase the rate for a service subject to emerging competition that is listed in the price list effective 30 days after notice is given to affected customers, the commission, and the department. The notice and new price list filing to the commission and the department for a rate increase must include an incremental cost study demonstrating that the proposed price is above incremental cost. The department shall investigate an increase in rates for services subject to emerging competition, and report its findings to the commission within 30 days of the filing. The commission may, within 60 days after the date of the filing, order that the rate increase is interim in nature and subject to refund. If interim rates are not ordered, the rate increase is not refundable. If a rate is subject to refund, the commission, after a contested case hearing or an expedited hearing under section 237.61 if there are no material facts in dispute, must make a final decision regarding the propriety of the rate increase within ten months of the date the price change was filed. If the commission does not do so, the price change is deemed approved.

(c) If language describing a rate, term, or condition of service in a price list is changed without substantially altering the application of the price list, the change may take effect upon one-day notice to the commission.

(d) If a term or condition of service in a price list is changed in a way that results in a substantial change in the application of the price list, but the price is not changed, the change in the price list is effective at the same time as a price decrease under paragraph (a).

(e) If a new pricing plan is proposed for a service that is currently offered by a telephone company, the change in the price list is subject to the same schedules governing a price increase under paragraph (b). For purposes of this paragraph, a new pricing plan is a proposal that bundles rate elements for a service, alters the definition of the rate elements for a service, or includes increases for some rate elements and decreases for other rate elements.

(f) A telephone company may offer a new service to its customers ten days after it files a price list and incremental cost study for the service with the department and the commission.

(g) A change in a price list not covered by paragraphs (a) to (f) must be reviewed according to the schedule prescribed for a price increase under paragraph (b).

(h) An incremental cost study required by this section and section 237.62 must be a long-run incremental cost study unless the commission has allowed the telephone company required to do the study to set rates based on a variable cost study. A telephone company may include a petition to file a variable cost study instead of a long-run incremental cost study with its notice of price change or its filing of a new service. The commission shall grant the petition if the company demonstrates that a long-run incremental cost study is burdensome in relation to its annual revenue from the service involved, that the company has a low market share, that the service is no longer being offered to new customers, or if the company shows other good cause. A petition must be accompanied by a variable cost study. If the petition is denied, the company shall withdraw a filing made under this section.

(i) For purposes of this section and section 237.62, (1) long-run incremental cost means the change in total cost associated with a change in volume of the service, expressed on a per-unit basis, and (2) variable cost means the change in total cost, excluding fixed costs, associated with a change in volume of service, expressed on a per-unit basis.

*[For text of subds 3 to 5, see M.S.1988]*

**History:** 1989 c 74 s 13,14

**NOTE:** Subdivisions 1 and 2, as amended by Laws 1989, chapter 74, sections 13 and 14, are repealed August 1, 1994. See Laws 1989, chapter 74, section 26.

## **237.62 GENERAL RATE PROCEEDINGS; JOINT COSTS; NONCOMPETITIVE SERVICES.**

**Subdivision 1. Financial requirements.** This subdivision governs a proceeding initiated under section 237.075 or 237.081 to change the rates for noncompetitive services. Subdivision 1a governs a proceeding under section 237.075 or 237.081 to change the rates for noncompetitive services and for services subject to emerging competition. The company shall elect that rate changes be made in accordance with either this subdivision or subdivision 1a, and that election is binding on the commission in all respects.

A company electing to use this subdivision 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.

For purposes of this subdivision, when a telephone company uses an investment to provide competitive services to end-user customers and another company provides a competing service that requires, in part, the use of a similar investment to provide the telephone company's noncompetitive services or service elements, the telephone company shall treat both investments and related costs as though they are providing noncompetitive services and shall attribute revenues to the noncompetitive category using the rates for the noncompetitive service or service elements multiplied by the appropriate current volumes for the telephone company's competitive service instead



of determining the investment, associated expenses, and common and joint costs under clauses (1) and (3) to determine the revenue requirement for the noncompetitive category.

**Subd. 1a. Alternative method.** (a) A telephone company electing to use this subdivision shall demonstrate the combined revenue requirement for its noncompetitive services and services subject to emerging competition in accordance with paragraphs (b) to (d).

(b) The telephone company shall use the procedures prescribed by subdivision 1 to allocate and remove the cost of providing services that are subject to effective competition, except that those procedures do not apply to central office-based dial switching systems that, by January 1, 1984, have been approved by the commission as obsolete and that are not available to new customers.

(c) Except as provided in paragraph (d), a combined revenue requirement for noncompetitive services and services subject to emerging competition must be determined under section 237.075. Once the revenue requirement has been established, the commission shall determine the telephone company's rates for services subject to emerging competition and noncompetitive services so that the revenue requirement can be met. The telephone company shall provide an embedded direct cost and an incremental cost study for each service subject to emerging competition that generates annual revenues in excess of the greater of one-tenth of one percent or \$100,000 of the company's annual gross revenues for the test-year period. An embedded direct cost is the sum of current expenses and a return of and a return on the current net book investment directly incurred to provide a service.

(d) On the date that a telephone company becomes subject to this section under section 237.58, the company shall begin an accounting of rate changes for services generally offered before January 1, 1988, that are subject to emerging competition. If the net effect of those rate changes is a lower revenue amount than would have been realized had the rates remained unchanged, the combined revenue requirement established under paragraph (c) must be reduced by an amount equal to the difference in revenues. The commission shall, as part of these proceedings, permit the telephone company to increase the prices for services subject to emerging competition to recover the revenue reduction. To determine whether a rate change has resulted in lower or higher revenues from a service subject to emerging competition, the rate in effect when the accounting requirement prescribed by this paragraph became effective must be subtracted from the rate in effect on the date the rate proceeding is commenced. For services priced on an individual basis, the change in rates must be calculated by subtracting the average revenue per unit for the service on the date the accounting requirements of this paragraph became effective from the average revenue per unit for the service in the test year used in the rate case. The difference for both individually priced and nonindividually priced services must be multiplied by the number of units sold in the test year used in the rate case. A rate change resulting from a pass-through of cost increases or decreases, approved or reallocated by a government entity, must be excluded from the revenue calculations under this paragraph.

**Subd. 2. Cross-subsidization.** A telephone company may not subsidize its competitive services from its noncompetitive services through allocations of costs, cost-sharing agreements, or other means, direct or indirect. When an investment is for both noncompetitive and competitive services, the company shall demonstrate that its proposed methods of cost recovery between competitive and noncompetitive services are reasonable. If the commission determines that the methods chosen by the company are not reasonable, the commission may order changes in the methods used and make necessary adjustments in rates being charged to reflect the changes.

*[For text of subd 3, see M.S.1988]*

**History:** 1989 c 74 s 15-17

**NOTE:** Subdivisions 1, 1a, and 2, as amended by Laws 1989, chapter 74, sections 15 to 17, are repealed August 1, 1994. See Laws 1989, chapter 74, section 26.

**237.625 INCENTIVE REGULATION.**

Subdivision 1. **Incentive plans.** (a) A telephone company whose general revenue requirement is determined under section 237.075 may petition the commission for approval of an incentive plan. The incentive plan must apply to the noncompetitive services of a company covered by section 237.62, subdivision 1, and must apply to noncompetitive services and services subject to emerging competition if the company has chosen to be governed by section 237.62, subdivision 1a. The purpose of the plan is to provide an incentive to the company to improve its operating efficiency while maintaining or improving the quality of its service. If a telephone company is able to increase its earnings, the telephone company shall share the increased earnings with its customers to the extent and in the manner set forth in the commission-approved plan. The commission may not approve a plan that does not meet the requirements of this paragraph and paragraphs (b) to (e).

(b) A telephone company shall share increased earnings during the term of the incentive plan with its customers either by giving them credits against bills or by lowering rates. The division of increased earnings between the company and the customers must reflect the degree to which the company has assumed a risk of earning less than its revenue requirement and the degree to which the customers have assumed a risk of rate increases.

(c) The incentive plan must be in effect for at least two years.

(d) The incentive plan must provide for periodic reporting to the commission to document that the sharing requirements of the plan are being properly implemented. The company's rates and earnings under the plan are not subject to section 237.081, subdivision 2, paragraph (b), except to the extent necessary to enforce the sharing provisions of the incentive plan.

(e) An incentive plan may not permit rate increases except under other provisions in this chapter. The plan may, however, permit the direct pass-through of cost decreases and increases approved or reallocated by a governmental entity, except for changes in intrastate depreciation schedules.

**Subd. 2. Adoption of a plan.** Before acting on a petition for approval of an incentive plan, the commission shall conduct any public meetings it may consider necessary. The commission shall require the petitioning telephone company to provide notice of the proposed plan to its customers, along with a summary description of the plan provisions and the dates, times, and locations of public meetings scheduled by the commission. In addition to public meetings, the commission shall conduct a proceeding under section 237.61 to decide whether to approve the plan. The commission shall issue findings of fact and conclusions concerning the appropriateness of the proposed plan and the terms and conditions of the sharing of increased earnings between the company and its customers. The commission may approve, reject, or modify a proposed plan, but may not order that a modified plan take effect without the agreement of the petitioning telephone company. The commission shall reject a plan if it has substantial reason to believe that existing rates are inappropriate. The commission shall issue its decision on a plan within six months after receiving the petition to approve the plan. If the commission does not act within six months, the plan is deemed withdrawn unless the commission and the petitioning company agree to an extension of the time for commission action.

**History:** 1989 c 74 s 18

**NOTE:** This section is repealed August 1, 1994. See Laws 1989, chapter 74, section 26.

**237.63 MISCELLANEOUS TARIFFS.**

Subdivision 1. **General.** A telephone company whose general revenue requirement is determined under section 237.075 may also set or change its rates for noncompetitive services under this section.

*[For text of subds 2 to 4, see M.S.1988]*

Subd. 4a. **Significant change in condition of service.** If the terms or conditions of service in a tariff are changed in a way that substantially changes the application of the tariff, but the price is not changed, the change in the tariff may take effect according to the schedule governing rate reductions in subdivision 4.

Subd. 4b. **New services.** A telephone company may offer a new service to its customers ten days after it files a tariff with the department and the commission.

Subd. 4c. **Other changes.** A tariff change not covered by subdivisions 1 to 4b and not requiring a review of a telephone company's gross revenues must be reviewed in accordance with section 237.075, subdivisions 1 and 2, except that the commission may order the company to provide whatever notice to potentially affected customers that the commission considers appropriate.

*[For text of subds 5 to 7, see M.S.1988]*

**History:** 1989 c 74 s 19-22

## **237.64 REGISTRATION; BOND.**

Subdivision 1. **Registration.** A person, firm, or corporation seeking to become a telephone company, as defined by section 237.01, subdivision 2, and not required to be certified under section 237.16, shall register with the department and the commission 90 days before beginning operation in the state. The commission may review the proposed rates and services and the financial conditions of the telephone company and may, under section 237.081, investigate any other matter it considers appropriate to protect the public interest. 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 that have registered under subdivision 1 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:** 1989 c 74 s 23,24

## **237.70 DEVELOPMENT OF TELEPHONE ASSISTANCE PLAN.**

*[For text of subds 1 to 6, see M.S.1988]*

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 an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the telephone companies. The application must contain the applicant's social security number. Applications without a social security number will be denied. Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

**YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS, AND**

YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT .....

(b) The department of human services shall determine the eligibility for telephone assistance plan credits at least annually according to the criteria contained in subdivision 4a.

(c) Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of an application form and shall continue to provide credits unless notified that the subscriber is ineligible. The company shall cease granting credits at the earliest possible billing cycle when notified by the department of human services that the subscriber is ineligible.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, 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, not to include expenses of collecting surcharges, and credits extended by the company under the telephone assistance plan;

(4) require each telephone company to remit surcharge revenues to the department of administration for deposit in the fund; and

(5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. 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 of public service 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 of public service 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:** 1989 c 282 art 5 s 2

### **237.701 TELEPHONE ASSISTANCE FUND; APPROPRIATION.**

**Subdivision 1. Telephone assistance fund.** The telephone assistance fund is created as a separate account in the state treasury to consist of amounts received by the department of administration representing the surcharge authorized by section 237.70, subdivision 6, and amounts earned on the fund assets. Money in the fund may be used only for:

(1) reimbursement to telephone companies for expenses and credits allowed in section 237.70, subdivision 7, paragraph (d), clause (5);

(2) reimbursement of the administrative expenses of the department of human services to implement sections 237.69 to 237.71, not to exceed \$180,000 annually; and

(3) reimbursement of the administrative expenses of the commission not to exceed \$25,000 annually.

*[For text of subd 2, see M.S.1988]*

**History:** 1989 c 282 art 5 s 3