

CHAPTER 237

TELEPHONE AND TELEGRAPH COMPANIES;
TELECOMMUNICATIONS CARRIERS

237.01	Definitions.	237.54	Telecommunication relay service.
237.035	Telecommunications carrier exemption.	237.55	Reports; plans.
237.295	Assessment of regulatory expenses.	237.59	Classification of competitive services; hearing.
237.49	Combined local access surcharge.	237.74	Regulation of telecommunications carriers.
237.50	Definitions.	237.75	Class service.
237.51	Board.		
237.52	Fund; assessment.		

237.01 DEFINITIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Telephone company.** "Telephone company," means and applies to any person, firm, association or any corporation, private or municipal, owning or operating any telephone line or telephone exchange for hire, wholly or partly within this state, or furnishing any telephone service to the public.

A "telephone company" does not include a radio common carrier as defined in subdivision 4. A telephone company which also conforms with the definition of a radio common carrier is subject to regulation as a telephone company. However, none of chapter 237 applies to telephone company activities which conform to the definition of a radio common carrier.

A "telephone company" does not include a telecommunications carrier as defined in subdivision 6, except that a telecommunications carrier is a telephone company for the purposes of section 222.36. A telephone company is not subject to section 237.74.

[For text of subds 3 and 4, see M.S.1992]

Subd. 6. **Telecommunications carrier.** "Telecommunications carrier" means a person, firm, association, or corporation authorized to furnish telephone service to the public but not authorized to furnish local exchange service. Telecommunications carrier does not include entities that derive more than 50 percent of their revenues from operator services provided to transient locations such as hotels, motels, and hospitals. In addition, telecommunications carrier does not include entities that provide centralized equal access services.

History: 1993 c 268 s 1,2

237.035 TELECOMMUNICATIONS CARRIER EXEMPTION.

Telecommunications carriers are not subject to regulation under this chapter, except that telecommunications carriers shall comply with the requirements of section 237.74.

History: 1993 c 268 s 3

237.295 ASSESSMENT OF REGULATORY EXPENSES.

[For text of subd 1, see M.S.1992]

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, 5, or 6. 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 calen-

dar 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 third 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.1992]

Subd. 6. Extended area service balloting account; appropriation. The extended area service balloting account is created as a separate account in the special revenue fund in the state treasury. The commission shall render separate bills to telephone companies only for direct balloting costs incurred by the commission under section 237.161. The bill constitutes notice of the assessment and demand of payment. The amount of a bill assessed by the commission under this subdivision must be paid by the telephone company into the state treasury within 30 days from the date of assessment. Money received under this subdivision must be credited to the extended area service balloting account and is appropriated to the commission.

History: 1993 c 369 s 68,69

237.49 COMBINED LOCAL ACCESS SURCHARGE.

Each local telephone company shall collect from each subscriber an amount per telephone access line representing the total of the surcharges required under sections 237.52, 237.70, and 403.11. Amounts collected must be remitted to the department of administration in the manner prescribed in section 403.11. The department of administration shall divide the amounts received proportional to the individual surcharges and deposit them in the appropriate accounts. A company or the billing agent for a company shall list the surcharges as one amount on a billing statement sent to a subscriber.

History: 1993 c 272 s 1

237.50 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. Communication impaired. "Communication impaired" means certified as deaf, severely hearing impaired, hard-of-hearing, speech impaired, deaf and blind, or mobility impaired if the mobility impairment significantly impedes the ability to use standard customer premises equipment.

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, a braille device for use with a telephone, and any other device the board deems necessary.

Subd. 4a. Deaf. "Deaf" means a hearing impairment of such severity that the individual must depend primarily upon visual communication such as writing, lip reading, manual communication, and gestures.

[For text of subds 5 and 6, see M.S.1992]

Subd. 6a. Hard-of-hearing. "Hard-of-hearing" means a hearing impairment resulting in a functional loss, but not to the extent that the individual must depend primarily upon visual communication.

[For text of subds 7 to 10, see M.S.1992]

Subd. 11. **Telecommunication relay service.** "Telecommunication relay service" means a central statewide 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: 1993 c 272 s 2-6

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 telecommunication relay service.

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

(1) the commissioner of the department of administration or the commissioner's designee;

(2) seven communication-impaired persons appointed by the governor at least three of whom reside outside a metropolitan county, as defined in section 473.121, subdivision 4, at the time of appointment, at least four of whom are deaf, one of whom is speech impaired, one of whom is mobility impaired, and one of whom is hard-of-hearing;

(3) one person appointed by the governor who is a professional in the area of communications disabilities;

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

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

(6) one person appointed by the governor to represent companies providing inter-LATA interexchange telephone service if the company with whom the person is employed does not have a contract to operate a telecommunication relay service under section 237.54 and agrees not to enter such a contract for at least one year after the person leaves the board.

[For text of subd 3, see M.S.1992]

Subd. 4. **Meetings.** The board shall meet at least annually.

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) establish specifications for communication devices to be purchased under section 237.53, subdivision 3;

(4) enter contracts for the establishment and operation of the telecommunication 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) reestablish and fill the position of program administrator whose position is in the unclassified service and establish and fill other positions in the classified service required to conduct the business of the board;

(9) adopt rules, including emergency rules, under chapter 14 to implement the provisions of sections 237.50 to 237.56; and

(10) notwithstanding any provision of chapter 16B, develop guidelines for the purchase of some communication devices from local retailers and dispensers if the board determines that otherwise they will be economically harmed by implementation of sections 237.50 to 237.56.

Subd. 6. Administrative support. The commissioner of the department of administration shall provide staff assistance not including the program administrator and other board staff who are 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: 1993 c 272 s 7-11

237.52 FUND; ASSESSMENT.

[For text of subd 1, see M.S.1992]

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 public utilities commission shall review the board's budget for reasonableness and may modify the budget to the extent it is unreasonable. 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 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

[For text of subds 3 and 4, see M.S.1992]

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

(1) expenses of the board, 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 the commissioner of human services for purchases made or services provided pursuant to section 237.53;

(3) reimbursing telephone companies for purchases made or services provided under section 237.53, subdivision 5; and

(4) contracting for establishment and operation of the telecommunication 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 telecommunication relay service are either reimbursable or directly payable from the fund after authorization by the board. Notwithstanding section 16A.41, the board may advance money to the contractor of the telecommunication relay service if the contractor establishes to the board's satisfaction that the advance payment is necessary for the operation of the service. The advance payment may be used only for working capital reserve for the operation of the service. The advance payment must be offset or repaid by the end of the contract fiscal year together with interest accrued from the date of payment.

History: 1993 c 272 s 12,13

237.54 TELECOMMUNICATION RELAY SERVICE.

Subdivision 1. Establishment. The board shall contract with an inter-LATA interexchange telephone service provider to establish a third-party telecommunication 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 telecommunication relay system. The board may contract with other than a local consumer organization if the board finds by at least a two-thirds majority vote that no local consumer organization is available to enter into or perform a reasonable contract to operate a telecommunications 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 braille device for use with a telephone.

History: 1993 c 272 s 14

237.55 REPORTS; PLANS.

The board must prepare a report for presentation to the commission by January 31 of each year. 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.

History: 1993 c 272 s 15

237.59 CLASSIFICATION OF COMPETITIVE SERVICES; HEARING.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. [Repealed, 1993 c 268 s 6]

[For text of subds 8 to 10, see M.S.1992]

TELECOMMUNICATIONS REGULATIONS

237.74 REGULATION OF TELECOMMUNICATIONS CARRIERS.

Subdivision 1. **Filing requirements.** Every telecommunications carrier shall elect and keep on file with the department either a tariff or a price list for each service on or before the effective date of the tariff or price, containing the rules, rates, and classifications used by it in the conduct of the telephone business, including limitations on liability. The filings are governed by chapter 13. The department shall require each telecommunications carrier to keep open for public inspection at designated offices so much of these rates, tariffs or price lists, and rules as the department considers necessary for public information.

Subd. 2. **Discrimination prohibited; practices, services, rates.** No telecommunications carrier shall offer telecommunications service within the state upon terms or rates that are unreasonably discriminatory. No telecommunications carrier 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 telecommunications carrier 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 carrier may offer or provide volume or term discounts or may offer or provide unique pricing to certain customers or to certain geographic locations for special promotions, and may pass through any state, municipal, or local taxes in the specific geographic areas from which the taxes originate.

Notwithstanding any other provision of this subdivision, a telecommunications carrier may furnish service free or at reduced rates to its officers, agents, or employees in furtherance of their employment.

Subd. 3. **Special pricing.** Except as prohibited by this section, prices unique to a particular customer or group of customers may be allowed for services when differences in the cost of providing a service or a service element justify a different price for a particular customer or group of customers. Individual pricing for services 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 August 1, 1993, are deemed to be lawful under this section.

Subd. 4. **Investigation, hearing, order, appeal.** (a) When the commission or the department believes 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 upon notice to the carrier. However, telecommunications carriers are not subject to rate or rate of return regulation and neither the commission nor the department may investigate any matter relating to a telecommunications carrier's costs, rates, or rate of return, except the commission and the department may investigate whether a rate is unreasonably discriminatory under subdivision 2.

(b) Upon a complaint made against a telecommunications carrier by a telephone company, by another telecommunications carrier, 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 telecommunications carrier, that any of the rates, tolls, tariffs or price lists, charges, or schedules is in any respect unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission, after notice to the telecommunications carrier, shall investigate the matters raised by the complaint.

(c) If, after making an investigation under paragraph (a) or (b), the commission finds that a significant factual issue raised has not been resolved to its satisfaction, the commission may order that a contested case hearing be conducted under chapter 14 unless the complainant, the telecommunications carrier, and the commission agree that an expedited hearing under section 237.61 is appropriate.

(d) In any complaint proceeding authorized under this section, telecommunications carriers shall bear the burden of proof consistent with the allocation of the burden of proof to telephone companies in sections 237.01 to 237.73.

(e) A full and complete record must be kept by the commission of all proceedings before it upon any formal investigation or hearing and all testimony received or offered must be taken down by the stenographer appointed by the commission and a transcribed copy of the record furnished to any party to the investigation upon the payment of the expense of furnishing the transcribed copy.

If the commission finds by a preponderance of the evidence presented during the complaint proceeding that existing rates, tolls, tariffs or price lists, charges, or schedules are unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission may issue its order requiring termination of the discrimination or making the service adequate or obtainable.

(f) 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.

(g) Any party to a proceeding before the commission or the attorney general may make and perfect an appeal from the order in accordance with chapter 14.

If the court finds from an examination of the record that the commission erroneously rejected evidence that should have been admitted, it shall remand the proceedings to the commission with instructions to receive the evidence rejected and any rebutting evidence and to make new findings and return them to the court for further review. Then the commission, after notice to the parties in interest, shall proceed to rehear the matter in controversy and receive the wrongfully rejected evidence and any rebutting evidence offered and make new findings, as upon the original hearing, and transmit it and the new record properly certified to the court of appeals, when the matter shall be again considered by the court in the same manner as in an original appeal.

(h) When an appeal is taken from any order of the commission under this chapter, the commission shall, without delay, have a certified transcript made of all proceedings, pleadings and files, and testimony taken or offered before it upon which the order was based, showing particularly what, if any, evidence offered was excluded. The transcript must be made and filed with the court administrator of the district court where the appeal is pending.

Subd. 5. Extension of facilities. A telecommunications carrier may extend its facilities into or through a statutory or home rule charter city or town of this state for furnishing its services, subject to the regulation of the governing body of the city or town relative to the location of poles and wires and the preservation of the safe and convenient use of streets and alleys by the public. Nothing in this subdivision shall be construed to allow or prohibit facilities bypass of the local exchange telephone company, nor shall it be construed to prohibit the commission from issuing orders concerning facilities bypass of the local exchange telephone company.

Subd. 6. Tariff or price list changes. (a) Telecommunications carriers may:

(1) decrease the rate for a service, or make any change in a tariff or price list that results in a decrease in rates, effective without notice to its customers or the commission; and

(2) offer a new service, increase the rate for a service, or change the terms, conditions, rules, and regulations of its service offering effective upon notice to its customers. Subject to subdivisions 2 and 9, a telecommunications carrier may discontinue a service, except that a telecommunications carrier must first obtain prior commission approval before discontinuing service to another telecommunications carrier if end users would be deprived of service because of the discontinuance.

(b) A telecommunications carrier may give notice to its customers by bill inserts, by publication in newspapers of general circulation, or by any other reasonable means.

Subd. 7. Occasional use. A telecommunications carrier shall not be deemed to provide local exchange services within the meaning of sections 237.01 and 237.035 merely because of occasional use of the service by the customer for local exchange service related to the provision of interexchange services.

Subd. 8. Uniform rules. Telecommunications carriers are subject to uniform rules pertaining to the conduct of intrastate telephone services by telecommunications carriers that the commission has prescribed and may prescribe, to the extent the rules are not inconsistent with this section. Rules, forms, or reports required by the commission must conform as nearly as practicable to the rules, forms, or reports prescribed by the Federal Communications Commission for interstate business.

Subd. 9. Discontinuance. If a physical connection exists between a telephone exchange system operated by a telephone company and the toll line or lines operated by a telecommunications carrier, neither of the companies shall have the connection severed or the service between the companies discontinued without first obtaining an order from the commission upon an application for permission to discontinue the physical connection. Upon the filing of an application for discontinuance of the connection, the department shall investigate and ascertain whether public convenience requires the continuance of the 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 company and the telecommunications carrier. Prior commission approval is not required for severing connections where multiple local exchange companies are authorized to provide service. However, the commission may require the connections if it finds that the connections are in the public interest.

Subd. 10. Cost of examination; assessment of expenses; limitation; objections. Section 237.295 applies to telecommunications carriers as it does to telephone companies.

Subd. 11. Enforcement; penalties and remedies. (a) This section and rules and orders of the commission adopted or issued under this section may be enforced by criminal prosecution, action to recover civil penalties, injunction, action to compel performance, other appropriate action, or any combination of penalties and remedies.

(b) A person who knowingly and intentionally violates this section or a rule or order of the commission adopted or issued under this section shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least \$100 and not more than \$1,000 for each day of each violation. The civil penalties provided for in this paragraph may be recovered by a civil action brought by the attorney general in the name of the state. Amounts recovered under this paragraph must be paid into the state treasury.

Subd. 12. **Certification requirement.** No telecommunications carrier shall construct or operate any line, plant, or system, or any extension of it, or acquire ownership or control of it, either directly or indirectly, without first obtaining from the commission a determination that the present or future public convenience and necessity require or will require the construction, operation, or acquisition, and a new certificate of territorial authority. Nothing in this subdivision requires a telecommunications carrier that has been certified by the commission to provide telephone service before August 1, 1993, to be recertified under this subdivision. Nothing in this subdivision shall be construed to allow or prohibit facilities bypass of the local exchange telephone company, nor shall it be construed to prohibit the commission from issuing orders concerning facilities bypass of the local exchange telephone company.

History: 1993 c 268 s 4

CUSTOM TELEPHONE SERVICES

237.75 CLASS SERVICE.

Subdivision 1. **Definition.** For purposes of this section, "CLASS" or "custom local area signaling service" means a custom calling telephone service that is enabled through the installation or use of Signaling System 7 or similar signaling system and that includes at least the following features:

- (1) automatic call back;
- (2) automatic recall;
- (3) calling number delivery, commonly known as "caller identification";
- (4) calling number delivery blocking;
- (5) customer originated call tracing;
- (6) distinctive ringing/call waiting;
- (7) selective call acceptance;
- (8) selective call forwarding; and
- (9) selective call rejection.

Subd. 2. **Class; terms and conditions.** By January 1, 1994, the commission shall determine the terms and conditions under which CLASS services may be provided by telephone companies in this state.

Subd. 3. **Class; capability and offering of service.** Each telephone company that provides local telephone service to persons located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington shall obtain the capability to offer CLASS services in those counties by January 1, 1995, unless the commission approves an extension to a date certain.

History: 1993 c 268 s 5